



TRANSPARENCY  
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# CORRUPTION RISK ASSESSMENT OF INFRASTRUCTURE PROJECTS IN INDONESIA





# **CORRUPTION RISK ASSESSMENT OF INFRASTRUCTURE PROJECTS IN INDONESIA**

TRANSPARENCY INTERNATIONAL INDONESIA  
2023

Transparency International Indonesia (TII) is a chapter of Transparency International, a global network of anti-corruption NGOs that promotes transparency and accountability to state institutions, political parties, business and civil society. Together with more than 90 other chapters, TII strives to build a world that is clean from corrupt practices and impacts throughout the world.

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Every effort has been made to verify the accuracy of the information contained in this report. All information is believed to be correct as of 31 July 2023. However, Transparency International Indonesia cannot accept responsibility for the consequences of using it for other purposes or in other contexts.

Transparency International Indonesia would like to thank Transparency International Australia for their cooperation and support in carrying out this assessment. This tool was developed as part of Transparency International Australia's *Accountable Infrastructure Project* funded by the Australian Government Department of Foreign Affairs and Trade (DFAT) and New Zealand Ministry of Foreign Affairs and Trade (MFAT) for the implementation of the *TI Indo-Pacific Partnership for Strong, Transparent, Responsive and Open Networks for Good Governance 2020-2023*.

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## ABBREVIATION

|          |   |
|----------|---|
| ADB      | <i>Asian Development Bank</i>   |
| AIIB     | <i>Asian Infrastructure Investment Bank</i>   |
| APBN/D   | State/Regional Revenue and Expenditure Budget                                       |
| APIP     | Government Internal Monitoring Apparatus  |
| ASEAN    | <i>The Association of Southeast Asian Nations</i>                                   |
| B2B      | <i>Business to Business</i>   |
| BO       | Beneficial Ownership  |
| BP2JK    | Implementation Center for Construction Service Selection                            |
| BPJT     | Toll Road Regulatory Agency   |
| BPK      | Audit Board of the Republic of Indonesia  |
| BPKP     | Financial and Development Supervisory Agency  |
| BPN      | National Land Agency  |
| BRI      | Belt and Road Initiative  |
| CDB      | China Development Bank  |
| COI      | <i>Conflict of Interest</i>   |
| CoST     | Construction Sector Transparency Initiatives  |
| CRC      | China Railway Corporation   |
| DPID     | Regional Infrastructure Adjustment Fund   |
| DPMPTSP  | One Stop Investment and Services Office   |
| DRPLN-JM | List of Medium Term Foreign Loan Plans  |
| DRPPLN   | List of Priority Plans for Foreign Loans  |
| EBET     | New Energy and Renewable Energy   |
| FBC      | <i>Final Business Case</i>  |
| FCPA     | <i>Foreign Corrupt Practices Act</i>  |
| FDB      | Revolving Fund Facility   |
| FMCBG    | Minister of Finance and Central Bank Forum  |
| FRLDD    | Forum Against Lambo Dam Construction  |
| FS       | Feasibility Study   |
| GCA      | Government Contracting Agency   |
| HPS      | Self-Estimated Price  |
| IDS      | <i>Infrastructure Data Standard</i>   |
| IIGF     | Indonesia Infrastructure Guarantee Fund/ <i>PT Penjamin Infrastruktur Indonesia</i> |
| IKN      | Capital City of Nusantara   |
| IMB      | Building permit   |
| IPP      | Independent Power Producer  |
| IWG      | Infrastructure Working Group  |
| JICA     | Japan International Cooperation Agency  |
| JORR     | Jakarta Outer Ring Road   |
| KADIN    | Indonesian chamber of commerce  |

|        |  |
|--------|--|
| KAK    | Terms of Reference   |
| KCIC   | PT Kereta Cepat Indonesia China  |
| KCJB   | Jakarta–Bandung Fast Train   |
| KIAT   | Indonesia Australia Infrastructure Partnership                                     |
| KIP    | Public Information Commission  |
| KJPP   | Public Appraiser Service Office  |
| KPA    | Agrarian Reform Consortium   |
| KPBU   | Government Cooperation with Business Entities                                      |
| KPK    | Corruption Eradication Commission  |
| KPIIP  | Committee for the Acceleration of Providing Priority Infrastructure                |
| KPS    | Public-Private Partnership   |
| KTT    | Summit Conference  |
| LKPP   | Government Goods and/Services Procurement Policy Institute                         |
| LMAN   | State Asset Management Institute   |
| LPI    | Logistic Performance Index   |
| LPSE   | Electronic Procurement Services  |
| MP3EI  | Master Plan for the Acceleration and Expansion of Indonesia's Economic Development |
| OBC    | Outline Business Case  |
| OSS    | Online Single Submission   |
| P3CU   | Public Private Partnership Central Unit  |
| P3SON  | Center for Education, Training and National Sports School                          |
| PBB    | United Nations   |
| PBG    | Building Approval  |
| PBJ    | Procurement of goods and services  |
| PEPs   | Politically-exposed Persons  |
| PLTB   | Wind Power Plant   |
| PMN    | State Capital Participation  |
| PMO    | Project Management Office  |
| PPSJ   | Perumda Pembangunan Sarana Jaya  |
| PSN    | National Strategic Project   |
| PT IIF | PT Indonesia Infrastructure Finance  |
| PT SMI | PT Sarana Multi Infrastructure/ <i>PT Sarana Multi Infrastruktur</i>               |
| PUPR   | Public Works and Public Housing  |
| PVMBG  | Center for Volcanology and Geological Hazard Mitigation                            |
| RPJMN  | National Medium Term Development Plan  |
| RUPTL  | Electricity Supply Business Plan   |
| SBSN   | State Sharia Securities  |
| SIKAP  | Performance Information System Provider  |
| SIMBG  | Building Information System  |
| SIRUP  | Procurement General Plan Information System  |
| SLF    | Function Eligibility Certificate   |

|         |  |
|---------|--|
| Stranas | PK National Strategy for Corruption Prevention |
| TII     | Transparency International Indonesia           |
| TPPU    | Money Laundering Crime                         |
| UKI     | Internal Compliance Unit                       |
| UNCAC   | United Nations Conventions Against Corruption  |



## EXECUTIVE SUMMARY

The primary findings from the corruption risk assessment in the infrastructure sector illustrate that most government infrastructure projects monitored violate legal quality decision-making. The implication is that these projects have the potential to be classified as “white elephant projects,” where the projects built look grand, even though they have high costs and a deficit of social benefits.

All four analyzed projects failed to meet lawfulness, effectiveness, efficiency, and social legitimacy in decision-making, except for the Sidrap I Wind Power Project construction. The development of these projects tends to ignore critical notes based on scientific studies, does not provide adequate opportunities for affected parties to have their interests heard, and does not carefully consider facts and stakeholder interests, both for the present and future contexts.

In addition, all infrastructure works projects monitored have not been able to fulfill the regime mandate of the Law on Public Information Disclosure No. 14 of 2008. In fact, for works not carried out by public bodies, almost no information is provided either in a proactive or reactive form. Even though the mandate of this regulation expressly requests that Public Bodies provide, provide and/or publish public information other than information that is exempt under the provisions.

Therefore, this study recommends that all stakeholders consistently and continuously make efforts to improve the investment climate broadly, improve the quality of real coordination in the politics of infrastructure project planning, continue further institutional and regulatory reforms, and increase the transparency of public information in state institutions in the infrastructure sector.

The problems above appear to be intertwined with President Joko Widodo's desire to execute infrastructure projects quickly. If it is then not based on a decision-making process that respects the concept of legal quality decision-making and lacks transparency, Joko Widodo's era infrastructure will be remembered as a development that cost a lot, has low social benefits, and even becomes an economic and social and ecological burden in the long term.



## I. INTRODUCTION

### A. Background

The United Nations Convention (UN) Against Corruption (UNCAC) continues to encourage State parties to develop an anti-corruption strategy that can effectively prevent corruption (Articles 5 and 12) by leveraging the collective power of individuals and groups, especially the public civil society, to prevent and increase public awareness about corruption (Article 13), particularly in the procurement and infrastructure sector (Article 9). Over the years, Indonesia has sought to build this multi-stakeholder collaboration to promote integrity in the public and private sectors.

However, these efforts often do not go hand in hand with improving the quality of governance in the infrastructure sector. It is widely known that the Government of Indonesia often disburses huge investments in the infrastructure sector<sup>1</sup>, especially those that fall into the National Strategic Projects (PSN) category<sup>2</sup>, which have also become an integral part of post-Covid-19 recovery efforts. Data from the Corruption Eradication Commission even confirms that the infrastructure sector is one of the most prone to corruption, with more than 50 cases since 2018<sup>3</sup>.

---

<sup>1</sup> Funds disbursed for infrastructure development at the Ministry of Public Works and Public Housing, for example, have increased yearly. They were starting from IDR 119 trillion in 2019, increasing to IDR 120 trillion in 2020, and reaching IDR 150 trillion in 2021. Meanwhile, for 2023, the Government allocates APBN funds of IDR 367.7 to 402.7 trillion for the infrastructure budget, including the development of IKN of IDR 27 to 30 trillion.

<sup>2</sup> Through the National Strategic Project (PSN), the Government seeks to accelerate projects that are considered strategic and have high urgency to be realized in a short period.

<sup>3</sup> During 2018-2019, the KPK handled 17 corruption cases in the infrastructure sector. Then it increased to 36 cases in the period 2020 to March 2021. Furthermore, finally, in 2022, 3 (three) Regional Heads were caught red-handed by the KPK as a result of accepting bribes/gratifications to get work packages at the PUPR Service.

The problem of bad governance is still one of the main threats that overshadow the failure of many infrastructure project developments. This problem, for example, is still easy to see from a large number of works and unfinished projects, the lack of healthy competition, and the drastic increase in the value of costs and debt for the Government and private investors. The few portraits of the problems above will, in turn, harm the quality of infrastructure projects and potentially disrupt political, economic, and social progress in society in the long run.

Therefore, a method capable of strengthening governance in the infrastructure sector is critical. Building good governance in the infrastructure sector is crucial, considering first, weak governance tends to be slow in sending risk signals. It is less responsive to developing mitigation strategies, especially at the decision-making stage, which will hurt the quality of the infrastructure project itself.

Second, the infrastructure sector is inherently shaped by political priorities, which often conflict with mechanisms and principles of good governance. This situation is increasingly complex because the infrastructure sector has many unique characteristics, ranging from the difficulty of comparing prices, the large number of actors involved, the long development period, and the thick culture of secrecy contributing to the high risk of corruption and vulnerability in this sector.

Third, the infrastructure sector has often become a venue for project “financing” for political elites to share in the benefits<sup>4</sup>. The phenomenon known as rent-seeking is rife amidst the government’s target of pursuing this quantity of physical development. This has an impact on economic, social, and environmental losses. Infrastructure is one of the “prim donnas” of corruption. According to a World Bank study, there was a very high markup, reaching 40 percent. The KPK gave an example in an infrastructure corruption case, out of a 100 percent contract value, it turned out that only 50 percent of the real value of infrastructure remained because the rest was divided among corruptors’ lending projects<sup>5</sup>.

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<sup>4</sup> Koran Tempo. (2016). *DPR Disebut Bancakan Proyek*. <https://koran.tempo.co/read/berita-utama/396268/dpr-disebut-bancakan-proyek> accessed on 14 August 2023

<sup>5</sup> ACLC KPK. (2022). *Kenali Bahayanya Dampak Korupsi di Berbagai Bidang Ini*. <https://aclc.kpk.go.id/aksi-informasi/Eksplorasi/20220520-kenali-bahayanya-dampak-korupsi-di-berbagai-bidang-ini> accessed on 14 August 2023.

So that in order to support the above needs, Transparency International Indonesia together with Transparency International Australia have been piloting the **Infrastructure Corruption Risk Assessment Tool (ICRAT)**<sup>6</sup> in Indonesia since May 2023. Better governance of infrastructure projects is the key to improving the quality of infrastructure investment. It is hoped that the ICRAT results can also be used as constructive input for the government, private sector and the wider public to strengthen measures to mitigate corruption risks in the infrastructure sector as collective action.

## B. Research Scope

This research is focused on understanding, identifying and assessing systemic vulnerabilities and corruption risks in the project selection stage of the infrastructure project cycle<sup>7</sup>. It is hoped that by using the ICRAT instrument, stakeholders, especially civil society organizations, can promote accountability in a public infrastructure project.

The ICRAT trial process in Indonesia began with assessing four Government infrastructure projects, among others:

- **The Jakarta-Bandung Fast Train Project** which is included in the National Strategic Project (PSN);
- **The Balang Island Bridge Project in the Nusantara Capital City (IKN)** and
- **the Hambalang National Sports School Training Education Center (P3SON) Project** as well as;
- **Sidrap I Wind Power Plant (PLTB)**, which is included in the green investment project category.

The four projects were chosen because of the availability and access to data, the source of funding, the total investment value is significant, the project status has been completed or will be completed soon, the various procurement schemes, and the high level of public attention, such as the spotlight on audit results or the media regarding non-optimal performance, ethical violations, allegations of maladministration, as well as the negative impact of the development on the environment or local communities, especially for women and indigenous groups.

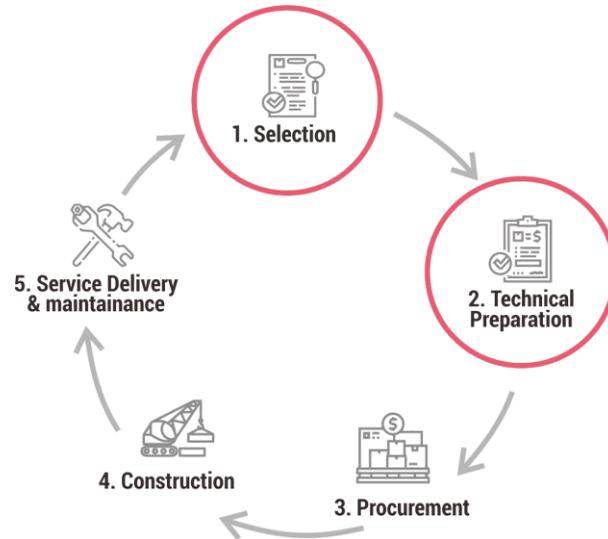
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<sup>6</sup> Transparency International Australia. (2022). *The Infrastructure Corruption Risk Assessment (ICRAT) Tool* <https://transparency.org.au/icrat/>

<sup>7</sup> The project selection stage includes all of the decision processes before contracting and construction begins. At this stage, the ICRAT instrument looks at the components of strategic planning, feasibility studies, cost and/benefit analysis, and risk assessment.

The stages of project selection are described in Figure 1 below:

**Figure 1. Infrastructure Project Cycle**



The choice of the four infrastructure projects is specifically because these projects are key sectors in which the government and/or private sector invests heavily. The projects selected in this pilot also had a high profile with a lot of media attention, although it generally proved more challenging to obtain relevant information and cooperation from the relevant authorities.

In addition, as a learning space, the research team seeks to select diverse infrastructure projects. As an example in terms of duration, two projects, namely the Jakarta-Bandung Fast Train Project and the Balang Island Bridge Project in the Nusantara Capital City (IKN), are still running or in the construction phase. On the other hand, the Sidrap I Wind Power Plant (PLTB) project was completed in 2018. Meanwhile, the Hambalang National Sports School Training Education Center (P3SON) project stopped because it was related to a corruption case already having a permanent court decision.

The various dynamics of the selected infrastructure projects are also reflected in terms of their sources of funding. The Jakarta-Bandung Fast Train project, for example, was chosen because it is one of the many projects mandated in the National Strategic Project (PSN) according to the Regulation of the Coordinating Minister for the Economy Number 9 of 2022 and Presidential Regulation Number 120 of 2022 concerning Special Assignments in the Context of Accelerating Implementation Infrastructure development. The PSN project itself is a project that is considered strategic and has a high urgency to be realized in a short period - it must be completed in Semester I of 2024.

Meanwhile, the Balang Island Bridge Project in the Nusantara Capital City (IKN) and the Hambalang National Sports School Training Education Center (P3SON) Project are fully funded by the State Budget. In comparison, the Sidrap I Wind Power Plant (PLTB) project is included in the list of projects directly related to green investment funds and energy transition with a business-to-business (B2B) scheme. The diversity of funding sources and the nature of the infrastructure projects themselves are expected to provide a variety of lessons learned during the ICRAT instrument implementation process.

In addition to comparing the changes and dynamics of the legal context and infrastructure policies, this study also examines how vulnerabilities in decision-making processes impact mitigating corruption risks. In addition, this study will also review corruption cases in the infrastructure sector that were revealed to verify risk findings.

### **C. Data Collection Methods**

The research team was led directly by Transparency International Indonesia, which consisted of 1 main researcher, three research assistants, two external advisers, and three enumerators. During the research process, the research team invited experts from various fields—including the government, private sector, professionals, and civil society organizations—to share their views, both for the ICRAT instrument and during the research process. Ensuring the diversity of views is crucial so that the information obtained is representative and balanced.

The TI Indonesia research team carried out the data tracking process independently. At this stage, the research team combined searching for primary and secondary data from focus group discussions, searching for data from open sources, to formal requests for information from several related institutions. Several data and information that has been obtained will be used to fill in the boring needs of the ICRAT instrument with a combination of quantitative and qualitative approaches.



## 1. Focus Group Discussion

While compiling the ICRAT study, the research team conducted three separate focus group discussions. The first discussion was carried out by inviting stakeholders from government agencies, professionals, and professional associations of the infrastructure sector, as well as civil society organizations, to brainstorm to refine the project scope boundaries and collect data related to the development context of the infrastructure sector.

On the agenda, which was held in November 2022, the discussion invited a number of stakeholders from the Government, including the Coordinating Ministry for Maritime Affairs & Investment; Ministry of Investment; Minister For Public Works and Human Settlements; Presidential Staff Office; Corruption Eradication Commission (KPK); Government Goods and Services Procurement Policy Institute (LKPP); Attorney General of Indonesia; Committee for the Acceleration of Providing Priority Infrastructure (KPPPI); Indonesian Ombudsman; Indonesian Chamber of Commerce (KADIN); and Corruption Prevention National Secretariat.

Meanwhile, the private sector and civil society organizations also invited PT Wijaya Karya (Persero) Tbk; PT Jaya Konstruksi Manggala Pratama Tbk; National Construction Services Association (GAPENSI); Alliance for Integrity (in Indonesia); CoST—the Infrastructure Transparency Initiative (CoST) in Indonesia; Indonesia Australia Infrastructure Partnership (KIAT); Indonesia Global Compact Network (IGCN); Center for Strategic Infrastructure Studies (PUKIS); Indonesia Corruption Watch; and the Forum for Budget Transparency (FITRA). There is general agreement that the ICRAT instrument can support relevant stakeholders to identify, assess and communicate the risks of corruption that arise during the selection of infrastructure projects.

The research team has prepared several key questions related to the legal environment for the infrastructure sector, developments in infrastructure development, the process of selecting infrastructure projects, monitoring mechanisms, implementation of integrity due diligence, and the impact on social and environmental aspects arising from infrastructure development activities. Collecting data through this discussion is the most effective and efficient method because there is a wealth of data from various informants' backgrounds so that it can be explored deeper from the interactions between the informants.

The discussion was then followed by a focused discussion within the TI Indonesia research team in February 2023. The agenda for the discussion aimed to identify and verify the risks, possibilities, and impacts of corruption resulting from poor governance of the infrastructure sector in Indonesia, departing from the results of the previous focused discussion.

This opportunity for discussion was also used to specifically develop indicators for selecting projects to be assessed<sup>8</sup>, as well as a long list of options for infrastructure projects to choose from. Meanwhile, regarding the project selection list, the research team chose three project categories: National Strategic Projects (PSN), non-National Strategic Projects (non-PSN), and projects based on green investment. These three project categories are considered to have great significance both in terms of their relevance to the current infrastructure policy regime and the significant investment nominal.

Of the three project categories, the research team registered ten selected project candidates, namely from the PSN category, including the Patimban Port Access Toll Road, Patimban Port, Kertajati Airport, Jakarta-Bandung Fast Train (KCIC), Batang Integrated Industrial Area, Bener Dam, and Fuel Development. Cilacap Green. At the same time, the non-PSN category includes the Development of the Nusantara Capital City (IKN), namely the Balang Island Bridge and the Hambalang Athlete Village Project. In the green investment-based project category, the project chosen is the Sidrap I Wind Power Plant (PLTB).

At the discussion forum, it was decided that three projects, namely the Jakarta-Bandung Fast Train (KCIC), Balang Island Bridge, the Hambalang Athlete Village Project, and the Sidrap I Wind Power Plant (PLTB), were made four ICRAT instrument piloting projects in Indonesia because they met the need for indicators above.

While the third focused discussion forum is a forum designed to re-examine the findings, this forum was held in June 2023 and was attended by the entire research team to obtain substantive and technical feedback on the ICRAT report, enrich the information on corruption risks in the infrastructure sector and steps to respond to a number of these risks, as well as identify opportunities for follow-up on the results of the ICRAT report.

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<sup>8</sup> In terms of indicators, there are five main components, including data availability and access, funding sources, total investment value is significant, project status has been completed or will soon be completed, various procurement schemes, and high public attention, such as the spotlight on the results of audits or the media about the performance that are not optimal, ethical violations, allegations of maladministration, as well as the negative impact of the development on the environment or local communities, especially for women and indigenous groups.

Various expert sources were also involved during the focused discussion process to provide information. The expert sources are experts in the procurement of Indonesian infrastructure projects and information disclosure and have extensive experience working in the infrastructure sector in Indonesia. Apart from being intended to provide information, the group discussion forum in June 2023 was also dedicated by the research team to conduct consultations with a team of panelists who came from various stakeholders, including civil society, the private sector, and the Government to support the research team in carrying out their tasks, especially in the early stages so that projections ICRAT implementation can be in accordance with the risk profile of corruption in Indonesia.

This process of involving expert resource persons and advisory groups extensively helped ensure a balanced assessment, enriched and validated the information and increased the credibility of ICRAT's final report. In the majority of projects piloted in Indonesia, project information tends to be challenging to obtain—either because it is not publicly available or the relevant agencies are reluctant and/or slow to respond. Therefore, the panelist team needs to consult the assessment regarding these projects.

## **2. Open Source Data Search**

This activity was carried out to explore publicly available data contained in sources from the official website. This step was carried out to obtain more detailed data and information regarding key questions, including those related to the project selection process, identification of gaps between official regulations and practice in the field, a list of related policies, and validating of the vulnerabilities and risks of corruption that occur and their impacts.

Sources from official websites include official government websites, companies or project contractors website, and research reports from various civil society organizations. This data tracing process was carried out from January to July 2023.

### 3. Information Requests

The move to access public information regarding infrastructure projects was made due to the lack of information available immediately on various official websites. Information related to government infrastructure project data, as mandated by Law Number 14 of 2008, is included in the type of information that is open to the public so that the Government is obliged to announce it immediately in a way that is easily accessible to the public and in a language that is easy to understand.

This provision is also required to be disclosed following Information Commission Regulation Number 1 of 2021 concerning Public Information Service Standards, specifically Article 14 letter (i) concerning procurement of goods and/services, and Article 15 paragraph 9 concerning information on government procurement of goods and/services. Apart from that, as regulated in Law Number 14 of 2008 concerning Public Information Disclosure, Article 7 paragraph (1) explains that a Public Agency is obliged to provide, provide and/or publish Public Information under its authority to Public Information Applicants.

The research team submitted an official letter requesting information to PT. Kereta Cepat Indonesia China's Information Management and Documentation Officer (PPID) regarding the Jakarta-Bandung Fast Train project, the Ministry of Public Works and Public Housing for the Balang Island Bridge project in the Nusantara Capital City (IKN), and the Ministry of Energy and Mineral Resources for the Sidrap I Wind Power Plant (PLTB) project in July 2023.

The list of information requested by the research team includes the following:

- a. Project annual report;
- b. Audit report of the Supreme Audit Agency (BPK)/Financial and Development Supervisory Agency (BPKP);
- c. Self-Estimated Price (HPS) and HPS History;
- d. Project Terms of Reference (TOR);
- e. Project procurement contract documents;
- f. Feasibility Study Documents and Environmental Documents, including Environmental Impact Analysis;

This request step is expected to provide more comprehensive information on the above infrastructure projects. However, by the time this report was completed in August 2023, there had been no response that met the needs of the request for information, both technically in terms of time and substance of the answers.



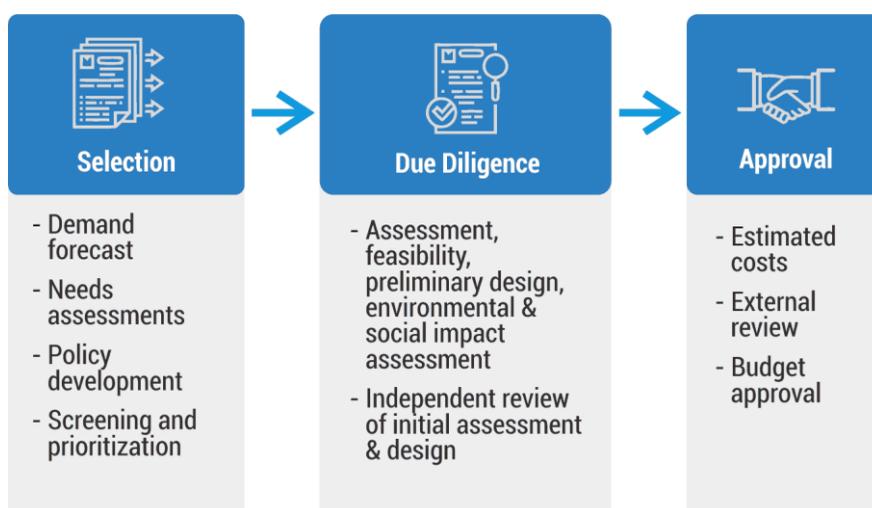
*Foto: democrazy.id*

## II. ICRAT INSTRUMENTS AND ITS RELEVANCE IN INDONESIA

Lack of transparency and accountability in the selection stages of infrastructure projects is one of the root causes of corruption. Researchers use the Infrastructure Corruption Risk Assessment Tool (ICRAT)<sup>9</sup> instrument to help identify and assess the causes and risks of corruption in selecting infrastructure projects in Indonesia. ICRAT was first developed by Transparency International Australia<sup>10</sup> to provide a consistent, transparent, and robust methodology for identifying and assessing corruption risks in the infrastructure sector.

The stages in this process are illustrated in Figure.

**Figure 2. Stages of Project Selection**



<sup>9</sup> In addition to the ICRAT instrument, there are several other approaches, such as those developed by [CoST](#) (The Infrastructure Transparency Initiative), the Anti-Corruption System Project developed by the [Global Infrastructure Anti-Corruption Center](#), and the [Transparency International Integrity Pact](#), which have assisted civil society during the procurement and construction stages. of the project cycle, namely preparation, procurement, and construction.

<sup>10</sup> This tool was developed with support from the Australian Government Department of Foreign Affairs and Trade (DFAT) and New Zealand Ministry of Foreign Affairs and Trade (MFAT) for the implementation of "TI Indo-Pacific Partnership for Strong, Transparent, Responsive & Open Networks for Good Governance 2020-2023."

Thus, the presence of ICRAT can help address this gap by identifying gaps that allow corruption to occur early in the project cycle. As an approach, ICRAT can primarily help identify areas that are vulnerable to significant corruption, as well as assess 'gray areas' of corrupt behavior (such as undue influence), which may not technically be illegal but can lead to inefficiencies or increased costs), and at the same time can equip civil society and other stakeholders to separate corruption risks such as undue influence from mismanagement.

In particular, the ICRAT instrument can provide benefits for stakeholders in infrastructure projects:

1. **For civil society** to build the capacity to understand corruption risks better and provide opportunities to participate during the often opaque infrastructure project selection process;
2. **For the government** to provide evidence of institutional weaknesses and gaps that may contribute to integrity failures and poor outcomes in infrastructure development. The presence of this instrument will also help increase the institutional capacity of governments in assessing the strengths and weaknesses of their project selection process;
3. **For infrastructure business actors** can benefit from better-prepared infrastructure projects that have been selected for the right reasons, helping companies to understand better and reduce the risks of corruption, as well as reduce the risks of doing business and damage to reputation;
4. **For infrastructure investors** can use this tool to assist them in deciding which markets are suitable for their investments and which corruption risks need to be managed.

risk of corruption, will encourage companies in the infrastructure sector to be more competent and increase compliance with international performance standards, and in turn, will be able to reduce corruption.

The ICRAT instrument uses a two-level assessment approach with details as below. The two-level approach aimed to allow the research team to choose the level of detail appropriate to the situation and context.

Therefore, the research team likely decided to complete the assessment process at Level I, either because this stage disclosed sufficient information and had substantial messages to guide stakeholder engagement or because the time and resources available for this research were limited.

1. **Level I – Initial Assessment**, which focuses on the broad (political and administrative) context of the selection process and the infrastructure project itself, using readily available data to produce an initial assessment report. The first step is carried out by collecting and analyzing data. This stage is carried out to determine the scope of the research.

The scope that the researcher focuses on is mapping and assessing business processes from the stages of infrastructure project selection as regulated by laws and regulations and official government guidelines. Then the researcher collects information about practices in implementing the process and regarding relevant contextual factors to identify further the vulnerability to corruption from the processes, practices, and contexts that have been analyzed.

2. **Level II - Detailed Assessment** of aspects of the project selection process highlighted by the initial assessment, then examines them in more depth. The second part begins with identifying the vulnerabilities and strengths of the processes and practices from the selection stage of infrastructure projects that are vulnerable to corrupt practices. Next, the research team assessed the identification of corruption risks stemming from these vulnerabilities.

Researchers also raise new risk by adopting and modifying general risks based on facts in the field. Researchers do this before assessing each corruption risk and analyzing evidence of possible risks and impacts. Finally, determining which corruption risks should be a priority for action for an effective transition from research to action in developing an anti-corruption strategy. Of course, the risks that are considered priority risks for TI Indonesia are corruption risks that TI Indonesia wants to mitigate or manage.

The research team may then decide to proceed with a detailed Level II assessment, which will require additional resources and access to expertise. The Level II assessment is a further, in-depth assessment of the specific corruption vulnerabilities previously identified in the Level I assessment and can identify situations where individuals or groups may influence the decision-making process to their advantage.

Apart from the two main stages above, the last step is **Level III – Communication of Findings and Follow-up**. At this step, the research team must communicate the assessment results and recommend actions to reduce the identified corruption risks.

In the third part, the findings are conveyed to obtain in-depth input on the research results. So that experts from various multilateral cooperation institutions, non-governmental and international organizations, and industry bodies can provide feedback in developing ICRAT tools. This step is important to help TI Indonesia follow up on potential stakeholder collaboration based on research results.

In more detail, the three levels of using the ICRAT instrument can be seen as follows:

**Table 1. ICRAT Assessment Steps**

| Stage 1. Initial Assessment               | Stage 2. Advanced Assessment * <sup>11</sup> | Stage 3. Communication of Findings and Follow Up |
|---|--|--|
| 1. Assess context                         | 5. Identify specific corruption risks        | 6. Respond to risk                               |
| 2. Grouping the project selection stages  |  | 7. Risk mitigation                               |
| 3. Identify project vulnerabilities       |  | 8. Reporting                                     |
| 4. Assess indications of corruption risks |  |  |



Photo : flickr.com

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<sup>11</sup> This step is optional.

From the table above, in summary, it can be seen that the ICRAT instrument can be carried out in six steps which include:

1. **Steps 1 to 4** are used to conduct a **Level I assessment**
  - a. Step 1 assesses the risk of corruption in the General Context where the infrastructure project is being developed.
  - b. Step 2 categorizes the project selection process that the government uses or has used for the infrastructure project under review.
  - c. Step 3 assesses the specific projects that have been selected for review to identify whether sound selection criteria and appraisal processes were followed.
  - d. Step 4 draws on the results from Steps 1 to 3 to generate an Indicative Risk of Corruption.
2. **Step 5** is optional and can be used for a **Level II** assessment. This step is carried out to re-examine the selection criteria and the evaluation process assessed in **Step 3** in more depth. This process is carried out to understand the vulnerability variables in more detail and whether the vulnerability is more likely due to mismanagement, negligence, or undue influence.
3. **Steps 6 to 8** are for **Level III** used to conclude (i.e., after Level I or Level II has been done) and prepare to communicate results. This step helps draw conclusions, develop material for follow-up reporting, and guide the research team in providing recommendations for mitigation actions. The last part of this step is to produce a summary report to communicate the assessment findings to stakeholders, especially government officials and the media.



### III. PORTRAIT OF THE INFRASTRUCTURE DEVELOPMENT IN INDONESIA

#### A. Infrastructure and Rent Seeking in New Order Era

The economic-political dynamics of the development of the infrastructure sector in Indonesia from time to time are often marked by tensions between regimes. Infrastructure was seen as the suitable arena to consolidate power to maintain the status quo and strengthen economic fundamentals since the beginning of the New Order era.

Since the days of Soeharto's centralized leadership, infrastructure policy formulations have tended to seek to benefit certain groups. For example, the massive development of the operation of a toll road with a length of 59 KM connecting Jakarta, Bogor, and Ciawi, better known as the Jagorawi Toll Road, was heavily criticized at that time because, apart from being considered not in favor of the agenda of economic equality, all projects related to toll roads controlled by Soeharto's cronies.

For example, the toll road privatization agenda initiated in the 1980s has benefited the toll road management company controlled by Soeharto's son through a concession agreement (PKP) scheme with PT Jasa Marga. In 1987, the government chose PT Citra Marga Nusaphala Persada (CMNP)—a subsidiary of PT Citra Lamtorogung Persada (CLP)—a company owned by Siti Hardijanti Rukmana or Tutut Suharto—to build Indonesia's first private toll road, namely the Port Toll Road in North Jakarta which opened in 1989<sup>12</sup>.

Meanwhile, Tutut's youngest brother, Hutomo Mandala Putra or Tommy Soeharto, who lost to his sister in the struggle for the North-South Line, was given the right to extend the Jakarta-Tangerang toll road for 73 KM towards Merak. Tommy's conglomerate company, PT Humpuss, completed the toll road in stages from 1992 to 1996.

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<sup>12</sup> CNN Indonesia. (2021). *Tol Jagorawi: Tonggak Sejarah Jalan Bebas Hambatan*. <https://www.kompas.id/baca/riset/2021/12/22/tol-jagorawi-tonggak-sejarah-jalan-bebas-hambatan>, accessed on May 18 2023

The toll road development plan was expanded through the construction of a 69 KM JORR (Jakarta Outer Ring Road), as well as the introduction of the construction of the Trans Java Toll Road (1995-1996) through a concession scheme<sup>13</sup>. In addition, irrigation development to provide dams in the context of food self-sufficiency also became the 'prima donna' in the Suharto era. For several of these development achievements, the World Bank in 1993 did not hesitate to call Indonesia the newly emerging East Asian tiger before the 1997 economic crisis hit.

The fall of Soeharto greatly impacted infrastructure investment and public projects, such as the ambition to build the Trans Java Toll Road, which eventually stopped. The crisis resulted in the government having to postpone the toll road construction program and withdraw large-scale infrastructure through [Presidential Decree No. 39 of 1997](#). However, even though Soeharto's power collapsed and many projects were canceled, the majority of the toll road industry was still controlled by Soeharto's children and cronies, including those reflected in the Trans Java Toll Road development concession as shown in the following table:

**Table 2. Distribution of Toll Road-Trans Java Concessions (1995-1996)<sup>14</sup>**

| No | Toll Road  | Developer  | Cost              |
|----|--|--|-------------------|
| 1  | Sadang–Subang (37 km)                                | Concord Benefit Enterprises Ltd  | IDR 476 billion   |
| 2  | Subang–Dawuan (52 km)                                | PT Bhaskara Lokabuana  | IDR 407,5 billion |
| 3  | Dawuan–Palimanan (24 km)                             | Van der Horst, Ltd., Johannes Kotjo, mantan eksekutif Grup Salim, konglomerat terkemuka di Indonesia | US\$ 144 million  |
| 4  | Kanci (Cirebon)–Pejagan (Brebes) (35 km)             | Bakrie Investindo  |                   |
| 5  | Pejagan–Pemalang (56 km) dan Pemalang–Batang (37 km) | PT Sumber Mitra Jaya, K. Gowindasamy   |                   |
| 6  | Batang–Semarang (75 km)                              | PT Marga Setiapuritama, Michael Lie  |                   |
| 7  | Semarang–Solo (76 km)                                | PT Karsa Semesta Indah, Husodo Angkosubroto (anak) & Go Soei Kie a.k.a. Dasuki Angkosubroto (ayah)   |                   |
| 8  | Solo–Kertosono (177 km)                              |  |                   |

<sup>13</sup> Detikfinance. (2014). *Ini Dia Tol Lingkar Jakarta yang Pertama Kali Dibangun*. <https://finance.detik.com/berita-ekonomi-bisnis/d-2643049/ini-dia-tol-lingkar-jakarta-yang-pertama-kali-dibangun>, accessed on May 2 2023

<sup>14</sup> Davidson, Jamie S. (2015). *Indonesia's Changing Political Economy: Governing the Roads*, Chapter 2, p. 29 <https://www.jstor.org/stable/24916617> accessed on April 9 2023

|    |                                 |   |                 |
|----|---------------------------------|---|-----------------|
| 9  | Kertosono–Mojokerto (39 km)     | Grup Hanurata, Soeharto dan saudara tirinya, Probosutedjo |                 |
| 10 | Mojokerto–Surabaya (37 km)      | PT Moeladi, Arry Moeladi Soemopawiro                      |                 |
| 11 | Gempol–Pandaan (13 km)          | PT Margabumi Adhikaraya (konsorsium), Moertomo Basoeki    |                 |
| 12 | Pandaan–Malang (30 km)          | Setdco Group, Setiawan Djody                              | IDR 217 billion |
| 13 | Pasuruan–Probolinggo (40 km)    | PT Bukaka Teknik Utama, Jusuf Kalla                       |                 |
| 14 | Probolinggo–Banyuwangi (170 km) |   |                 |



*Transjava toll roads that have been operational, under construction, and planned, as of July 2020 Photo: Gunawan Kartapranata (Wikipedia)*

## B. The Politics of Space and Land in the Era of Democracy

Since the 1997 crisis above, there has been almost no significant investment because political motives were more dominant due to high anti-Soeharto sentiment. This situation caused the President, Habibie, to be reluctant to increase toll rates because he did not want to be caught in the game of Suharto's cronies. After the sentiment had calmed down enough, the Gusdur era agreed to increase tariffs even though it was canceled because he was impeached first. Megawati, the next President, also tended to follow Habibie's footsteps at

the start of his administration by rejecting an increase in toll rates to maintain his people's image<sup>15</sup>.

At that time, the Megawati-era government preferred to issue Presidential Decree No. 15 of 2002 to evaluate the continuation of the pending toll road projects. From 2001 to 2004, 4 roads were built, totaling 41.80 km. However, in general, the government also failed to provide supporting funds, and efforts to revoke licenses for toll road concession holders who were hesitant to invest were ultimately counterproductive because they had to end up in court.

Accumulatively, because revenues continued to decline, toll road conditions worsened, and operators refused to invest funds for road maintenance, Megawati finally issued Law Number 38 of 2004 concerning Roads, one of which regulates profit-sharing agreements for the sake of toll road tariff adjustments. The tariff adjustment was motivated by Megawati's desire to attract private investment into the toll road sector.

The agenda also contributed to forming the [Toll Road Regulatory Agency \(BPJT\)](#). This Law mandates the formation of BPJT as a toll road regulator to replace the role of regulator, which PT Jasa Marga has held. However, even though they have been separated, in practice, BPJT's journey is still far from being independent. This can be seen, for example, from the relatively homogeneous structure of toll road concessionaires, namely wealthy conglomerates backed by politicians.

Given the importance of infrastructure development as a foundation for economic progress, the infrastructure development paradigm continued to be a top priority during the Soesilo Bambang Yudhoyono (SBY) administration. President SBY and his deputy Jusuf Kalla are trying to push for an economic liberalization agenda in vital sectors demanded by the IMF, World Bank and ADB in return for loans<sup>16</sup>.

During his two presidential terms (2004–2014), SBY was considered successful in restoring and maintaining political and economic stability in Indonesia's complex democratic environment. Fiscal consolidation was achieved during his first term. This is a necessary foundation for Indonesia to move beyond the current stalemate in infrastructure development.

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<sup>15</sup> CNBC Indonesia. (2022). *Bangun Jalan Tol: Jokowi Paling Rajin, Gus Dur Paling Irit*. <https://www.cnbcindonesia.com/news/20220414174612-4-331848/bangun-jalan-tol-jokowi-paling-rajin-gus-dur-paling-irit/3>, accessed on May 18 2023

<sup>16</sup> Davidson, Jamie S. (2016). *Land and Development in Indonesia: Searching for the People's Sovereignty Chapter 7 Eminent domain and infrastructure under the Yudhoyono and Widodo administrations*, pp. 167 - 185, ISEAS–Yusof Ishak Institute, <https://www.cambridge.org/core/books/abs/land-and-development-in-indonesia/eminant-domain-and-infrastructure-under-the-yudhoyono-and-widodo-administrations/B657125E392A9C97272210BF3ED7AB07>, accessed on April 22 2023.

In early 2005, under the SBY administration, Indonesia held its first infrastructure conference in Jakarta to attract investors to infrastructure projects worth US\$22 billion. The Summit was attended by more than 500 domestic and international investors. Furthermore, in 2006, Indonesia again hosted the infrastructure summit. This time more than a thousand participants attended the summit, which lasted for three days, of which 350 were representatives of major foreign companies and investment firms. During this period, Indonesia was slowly opening up its infrastructure sector for private sector participation, especially in electricity, toll roads, railways, and ports.

Several regulations were enacted, and several institutions were established to promote Public-Private Partnerships (PPP). Then, in 2011, the SBY administration launched the Master Plan for Accelerating and Expansion of Indonesia's Economic Development (MP3EI)<sup>17</sup>. The plan emphasizes the need for massive investment in infrastructure and improving the investment climate to boost annual average growth to 8 to 9 percent between 2015 and 2025.

In order to support the implementation of government cooperation with the private sector, the government also issued Presidential Regulation Number 13 of 2010, which was later amended by Presidential Regulation Number 56 of 2011 concerning Public-Private Partnerships (KPBU). The government then also established a series of support facilities, including a central PPP unit under the National Development Planning Agency (Bappenas), a risk management unit under the Ministry of Finance, a project development facility under Bappenas, and a revolving fund under the Ministry of Public Works.

To reinforce these steps, the government also established PT Sarana Multi Infrastruktur (PT SMI), PT Indonesia Infrastructure Finance (PT IIF) and the Indonesia Infrastructure Guarantee Fund (IIGF) to provide consulting, financing and loan guarantee services. Finally, in managing the potential risk of increasing land acquisition costs, the government then prepared a Revolving Fund Facility (FDB)<sup>18</sup>.

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<sup>17</sup> In commitment, 2011 the SBY administration launched the MP3EI 2011–2025 to increase investor confidence in the government's commitment. MP3EI policies are designed as strategic directions for key development targets, including estimates of financial needs for large infrastructure projects. MP3EI is intended to signal the government's commitment to infrastructure investment, which the private sector is encouraged to join through PPPs. The government at that time offered ninety PPP projects worth IDR 536 trillion (US\$47 billion). However, due to a lack of financing and institutional capacity to implement projects, only three projects reached the groundbreaking stage in 2014.

<sup>18</sup> This fund provides bailout loans for toll road investors to purchase land and cover the risk of increasing land acquisition costs above a certain level. The then government allocated US\$154 million for loans under the land fund in 2009.

However, even though a number of summits have been held and a number of policies in the SBY era have been presented, these efforts are still considered to have failed to attract private investors to participate in the various infrastructure projects offered<sup>19</sup>. One of the main factors is the main problem that has become a barrier for investors, namely the unfavorable investment climate, which remains unresolved<sup>20</sup>.

Even after the summit took place, SBY actually issued a policy that drew criticism from civil society, namely Presidential Regulation Number 36 of 2005 concerning Land Acquisition for Implementation of Development for the Public Interest<sup>21</sup>. This law is seen as an important legal breakthrough aimed at resolving the painfully slow process of land acquisition, especially after decentralization.

This regulatory regime then started a new era of permitting the government to revoke citizens' land rights for the benefit of infrastructure development. With the issuance of this regulation, land evictions are increasingly occurring. On a broader scale, this Law is considered to be able to exacerbate conflicts over land, including conflicts that occur on customary lands caused by the lack of recognition.



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<sup>19</sup> Despite the excitement at the Infrastructure Summit and the speedy issuance of its implementing regulations, the forum yielded no significant results. More than a year later, only five projects were successfully tendered, and not a single project is operating more than five years later.

<sup>20</sup> After the summit, the SBY government accelerated the liberalization of land issues. This policy responded to investors who expressed reluctance to invest because of the complexity of land acquisition issues. Investors are concerned about the inflated costs resulting from land acquisition and, just as significantly, the delays resulting from protracted negotiations between the landowners and the local government's land committee.

<sup>21</sup> This policy was then updated with Presidential Decree No. 65 of 2006 and Law No. 2 of 2012 concerning Land Acquisition for Development in the Public Interest.

### C. Jokowi's "Infrastructure First" Paradigm

Continuing SBY's ambition to overcome Indonesia's infrastructure constraints, President Jokowi's government is also trying to boost its infrastructure development. In particular, 'Nawacita' prioritizes accelerating infrastructure development to connect suburban areas with growth centers and encourage inter-island connectivity in the archipelago<sup>22</sup>.

In the 2015-2019 National Medium-Term Development Plan (RPJMN)<sup>23</sup>, the Jokowi administration has ambitions to build 5,000 kilometers of railroads, 2,600 kilometers of highways, 1,000 kilometers of toll roads, 49 dams and 24 seaports, as well as building power plants with a combined capacity of 35,000 megawatts. Under his administration, President Jokowi encouraged progress in four key sectors, namely the maritime sector<sup>24</sup>, the agricultural sector<sup>25</sup>, the road and railway sector<sup>26</sup>, and securing the country's energy supply (including electricity, oil and gas)<sup>27</sup>.



<sup>22</sup> Negara, Siwage Dharma. (2016). *Indonesia's Infrastructure Development under The Jokowi Administration*, Siwage Dharma Negara, Southeast Asian Affairs, pp. 145-166 ISEAS-Yusof Ishak Institute, <https://www.jstor.org/stable/10.2307/26466924>, accessed on April 22 2023.

<sup>23</sup> The RPJMN is a technocratic document prepared by Bappenas to provide strategic development guidelines for state agencies, local governments and other stakeholders. It shows the main development priorities and financing plan. During his first term in 2014, it was stated that Indonesia would need around IDR 5,519.4 trillion (US\$400 billion) for infrastructure investment over the next five years.

<sup>24</sup> Jokowi plans to develop a "sea highway" project to improve inter-island connectivity throughout the archipelago. Studies show that the lack of regular inter-island freight services and inefficient port handling are the main factors behind the high cost of logistics that causes huge price disparities in Indonesia. Basically, the sea highway project provides regular transportation services connecting the western and eastern parts of Indonesia. The goal is to reduce the price disparity between the two regions.

<sup>25</sup> The Jokowi administration plans to build 49 dams and develop 9 million hectares of agricultural land and will increase spending on rural infrastructure development, through "village funds".

<sup>26</sup> The government plans to continue building 2,700 kilometers of new roads and 1,000 kilometers of new toll roads. In addition to road investment, the government is also planning to build a 3,258-kilometer rail network outside Java. This includes the 595-kilometer Trans Papua Railway that will connect Sorong and Jayapura.

<sup>27</sup> The government has projected the need to develop more power plants with a total capacity of 35,000 megawatts. Together, the power projects are estimated to cost around IDR 1,120 trillion (\$88 billion).

However, there are still many challenges in encouraging the investment climate and ease of business in Indonesia. One is reflected in the stagnation of the Ease of Doing Business (EoDB)<sup>28</sup> rating in recent years. In 2014, Indonesia was in position 120. However, in 2018, Indonesia's EoDB rating jumped from 91st in the previous year to 72nd. Unfortunately, in 2019 Indonesia's position dropped slightly to 73rd and remained in the same ranking in 2020<sup>29</sup>. Of the ten indicators assessed in the EoDB, the aspects of trading across borders, starting a business, dealing with construction permits, registering assets, and enforcing contracts are still being the main challenge in creating a healthy, competitive and simple licensing environment in Indonesia.

Given the magnitude of the need for infrastructure spending which is inversely proportional to the ability of the state to finance<sup>30</sup>, it demands that the government encourage more private investment, both local and foreign. In this difficult context, President Jokowi is looking for a new approach to achieve the much-needed breakthrough to boost infrastructure development. One of them is by increasing the government's budget for infrastructure development through its decision to remove most of the energy subsidies.

In particular, Jokowi also appointed a number of SOEs as developers of major infrastructure projects. State-owned companies usually have larger assets compared to private companies and it is also easier to obtain additional funds from banks (BUMN). There has also been an increase in capital injections from the state budget (State Capital Participation/PMN) to several major state-owned construction companies.

In attracting foreign investors, during his first official overseas trip in November 2014, Jokowi secured around US\$1 billion in loan support for rail projects, including a mass rapid transit system being built in Jakarta. From that visit, China and Indonesia also signed a collaboration to build a high-speed rail project connecting Jakarta and Bandung, as well as energy, maritime and other infrastructure projects<sup>31</sup>.

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<sup>28</sup> In September 2021, the World Bank made an official statement that the EoDB report was temporarily suspended due to data irregularities in the 2018 and 2020 Doing Business Reports following an internal report in June 2020.

<sup>29</sup> World Bank. (2021). *Ease of Doing Business Rank*. <https://data.worldbank.org/indicator/IC.BUS.EASE.XQ?locations=ID>, accessed on July 22 2023.

<sup>30</sup> At that time, Indonesia was predicted to need around US\$300–400 billion during the 2010–2020 period. On the other hand, the government is only able to finance around 20 percent of the total investment required.

<sup>31</sup> Salim, Wilmar & Negara, Siwage Dharma. (2018). *The Indonesian Economy in Transition: Policy Challenges in the Jokowi Era and Beyond (Part II)* (December 2018), pp. 386-401, *Journal of Southeast Asian Economies*, Vol. 35, No. 3, Special Issue <https://www.jstor.org/stable/10.2307/26545320>, accessed on April 22 2023.

Another step taken to find financing alternatives was to decide to join the Chinese-led Asian Infrastructure Investment Bank (AIIB)<sup>32</sup>. In June 2015 in Beijing, Indonesia along with fifty-six other countries signed articles of agreement for the establishment of this new multilateral development bank. For Indonesia, AIIB is seen as a complement to the Asian Development Bank (ADB) and the World Bank, Indonesia's two traditional development partners.

**Graph 1. The Development Trend of Chinese Investment in Indonesia (US\$ Million)<sup>33</sup>**



The magnitude of China's involvement in the Indonesian economy is also reflected in the Belt and Road Initiative (BRI), an infrastructure development project and the development of inter-regional connectivity initiated by China since 2013<sup>34</sup>. This project was later embraced by Jokowi in his infrastructure program. According to Jokowi, there is a match between Indonesia's untapped maritime resources and China's desire to expand its business in Indonesian territory.

<sup>32</sup> The advantage of AIIB is not only in providing financial support to the government, but also to private institutions for the development of infrastructure projects. In addition, the AIIB can provide loans for coal-fired power projects, which the ADB and the World Bank are trying to avoid as they have negative implications for the environment.

<sup>33</sup> Koran Tempo. (2023). *Rendah Kualitas Investasi Cina*, <https://koran.tempo.co/read/ekonomi-dan-bisnis/482682/rendah-kualitas-investasi-cina>, accessed on Februari 9 2023.

<sup>34</sup> Tempo English. (2023). *Unravelling the Belt and Road Puzzle in Indonesia*. <https://en.tempo.co/read/1746207/unravelling-the-belt-and-road-puzzle-in-indonesia>, accessed on July 9 2023.

The trend of Chinese investment realization has continued to increase in recent years, in line with the implementation of BRI in Indonesia. In 2022, this realization will be the highest in the last ten years, with a value of US\$ 5.2 billion. Indonesia itself certainly has a strong attraction in China's BRI project because of its important location from the maritime silk route, its large population so that it can become an export market target, has raw materials and semi-finished products to meet Chinese industries and has relatively relaxed regulations in investment thanks to Job Creation Law.

Not only Indonesia, China is also actively investing in the development sector, transportation development, mining, and power generation in many countries. In 2019, Chinese investment in ASEAN exceeded US\$ 1 trillion for Indonesia, Vietnam, Cambodia, and Singapore. Indonesia's total debt to China will reach US\$ 20.23 billion in 2023, or the equivalent of Rp. 315.1 trillion, and it is predicted that it will continue to increase because of the BRI project.

However, some of these Chinese investments are considered low quality because they do not have sufficient standards in terms of the environment, employment, and their contribution to local communities. As a result, this investment creates problems, such as labor conflicts at PT Gunbuster Nickel Industry or the burning of a steam power plant in the Morowali Industrial Area.

Another example is the construction of the Jakarta-Bandung High-Speed Train. The project development process has been controversial from the start<sup>35</sup>; for example, repeated work accidents resulting in cost overruns caused Indonesia to withdraw new debt from the China Development Bank. Due to the long payback period, this project is expected to burden the state in the long term.

Another project that is also problematic is the construction of the Batang Toru Dam in North Tapanuli, North Sumatra. The dam, built to generate hydroelectric power, can potentially destroy the orangutan habitat because the construction is not environmentally friendly. The Dam hydropower operation is also worrying because it causes the river flow to become smaller.

These projects are just a few of Indonesia's BRI infrastructure projects. In 2021, there will be around 71 Chinese BRI projects with a total investment of US\$ 20.3 billion. This value places Indonesia as the second country that has received the most BRI investment projects. Chinese investment is feared to be like a leech that eats away at the state budget if it is not appropriately calculated and puts forward strict parameters for environment, society, and governance—and does pursue investment quantity and quality.

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<sup>35</sup> Kompas. (2020). *4 Insiden Kelalaian di Proyek Kereta Cepat Jakarta-Bandung*. <https://money.kompas.com/read/2020/03/01/190135526/4-insiden-kelalaian-di-proyek-kereta-cepat-jkt-bdq?page=all>, accessed on 9 February 2023.



**BELT  
& ROAD  
INITIATIVE**  
—带—路

Year of 2021

Indonesia is the second largest recipient of BRI investment projects in the world



**71**  
Projects  
in Indonesia



Total Investment  
**US\$ 20,3 Miliar**

Chinese investment will undermine the state budget if it is not calculated properly and applies strict parameters for environment, social and governance—and pursues not only investment quantity, but also quality.

**Table 3. List of Belt and Road Initiative Projects in Indonesia**<sup>36</sup>

| Project Type                          | Project                                   | Region                 |
|---------------------------------------|---|------------------------|
| Roads and Railways                    | Jakarta-Bandung Fast Train                | DKI Jakarta, West Java |
|                                       | Balikpapan-Samarinda road                 | East Kalimantan        |
| Coal Power Plant Development          | PLTU Mulut Tambang Sumsel 8               | South Sumatera         |
|                                       | PLTU Paiton Unit 9                        | East Java              |
|                                       | PLTU Celukan Bawang                       | Bali                   |
| Hydroelectric Power Plant development | East Nusa Tenggara Dam                    | East Nusa Tenggara     |
|                                       | Batang Toru hydroelectric power plant dam | North Sumatera         |
|                                       | Kayan River hydroelectric power plant     | North Kalimantan       |
| Industrial Estate Development         | Tanah Kuning Industrial Park              | North Kalimantan       |
|                                       | Ketapang Industrial Park                  | West Kalimantan        |
|                                       | Likupang Economic Zones                   | North Sulawesi         |
|                                       | Morowali Industrial Park                  | Central Sulawesi       |
|                                       | Obi Industrial Park                       | North Maluku           |

<sup>36</sup> Koran Tempo. (2023). *Proyek Infrastruktur jadi Bidikan*, <https://koran.tempo.co/read/ekonomi-dan-bisnis/482686/proyek-infrastruktur-jadi-bidikan>, accessed on March 19 2023.

Apart from that context, some of Jokowi's 'promotion' efforts have borne fruit. The government has committed to groundbreaking ten major infrastructure projects in 2015. The groundbreaking occurred in April 2015, when the government launched the second phase of the 2,700-kilometer Trans-Sumatra toll road. Then, in August 2015, Jokowi attended the long-delayed groundbreaking ceremony for a 2,000-megawatt coal-fired power plant project in Batang, Central Java. In November 2015, the Ministry of Trade and Transportation officially launched the Jokowi sea highway project.

**Table 4. Jokowi's Quick-Win Infrastructure Project (2015)<sup>37</sup>**

| Project  | Location   | Investment Value (IDR Trillion) |
|--|--|---------------------------------|
| Bontang Factory                                | East Kalimantan  | 60                              |
| Fast train Batang Power Station                | Central Jawa   | 40                              |
| Drinking water treatment system (SPAM)         | Semarang   | 765                             |
| Trans-Sumatera Toll Road phase II construction | Sumatra  | 30                              |
| Balikpapan-Samarinda Toll Road                 | Kalimantan   | 11.4                            |
| Soekarno-Hatta International Airport           | Jakarta  | 24                              |
| Revitalization of three airports               | Labuan Bajo, NTB; Radin Inten II, Lampung; Mutiara, Central Sulawesi | N/A                             |
| East Kalimantan rail network                   | Kalimantan   | 20                              |
| Transmission Sumatra 500kV                     | Sumatera   | 35                              |
| Sumatra-Java High Voltage Transmission         | Sumatera, Jawa   | 30                              |

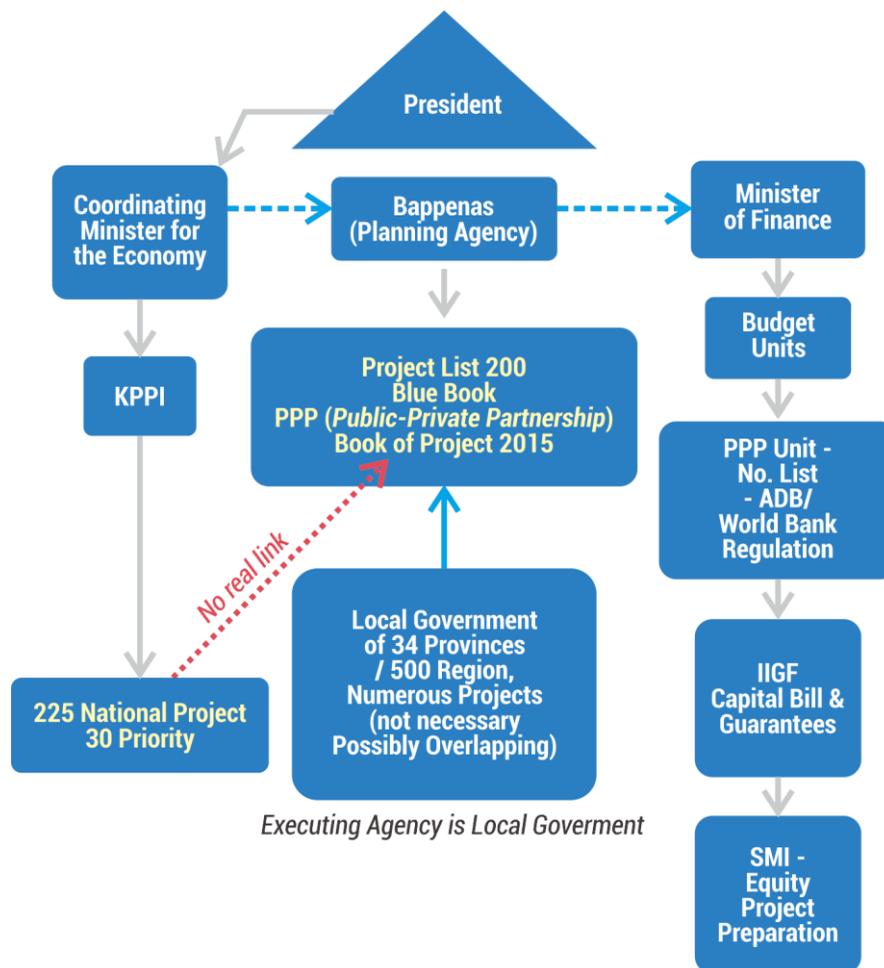
Jokowi's government has in recent years also pushed for strengthening the institutional framework to support its infrastructure plans. The government, for example, has also issued 13 economic policy packages ("deregulation packages") that focus on investment deregulation and tax incentives<sup>38</sup>. The government hopes that this deregulation package can increase Indonesia's competitiveness and help attract investment by cutting bureaucracy and providing greater legal and business certainty.

<sup>37</sup> Negara, Siwage Dharma. (2016). *Op, cit.*

<sup>38</sup> This policy includes the formulation of a Presidential Regulation on National Strategic Projects and a Presidential Regulation on the Development and Construction of Domestic Oil Refinery. In terms of fiscal policy, the Government has provided direct lending facilities to SOEs and availability payment facilities from the State Budget which are expected to increase project feasibility.

From an institutional perspective, the PUPR Ministry was strengthened by obtaining a special assignment from President Jokowi regarding the Acceleration of Infrastructure Development Implementation in various regions in Indonesia. This mandate is regulated in Presidential Regulation Number 120 of 2022 which was stipulated on 27 September 2022. In the context of implementing a special assignment, the Minister of PUPR can make a direct appointment in the process of procuring government goods and/services in accordance with statutory provisions. In addition, Presidential Regulation No. 63 of 2013 concerning the National Land Agency (BPN) is expected to be able to facilitate land acquisition through BPN organizational changes, such as the establishment of regional BPN offices and land acquisition deputy offices.

**Graph 2. Sustainability and Relations of Infrastructure Planning Agencies** <sup>39</sup>



<sup>39</sup> Duffield, et.al. (Tidak ada tahun). *Infrastructure Planning, Challenges and Risks*, C. F. Duffield, R. Duffield, and S. Wilson, <https://rest.neptune-prod.its.unimelb.edu.au/server/api/core/bitstreams/fee42ee9-7c5f-568b-ba8a-c920aee015e7/content>, accessed on June 16 2023.

The position of Bappenas has also become increasingly strategic in the Jokowi administration era. This agency is also responsible for planning, evaluating and implementing Public Private Partnerships (KPBUs) and coordinating KPBU programs. Bappenas publishes a KPBU Book every year with the aim of providing “reliable information to potential investors about ongoing national KPBU projects” (Bappenas 2015a; ERIA 2014). Projects generally fall into two categories based on readiness: projects ready to offer and projects in preparation. Projects that have been tendered are also listed (Bappenas 2017)<sup>40</sup>.

President Jokowi has also formed the Committee for the Acceleration of Providing Priority Infrastructure (KPPIP) in 2014, namely a special task force that has a mandate to coordinate policies among various stakeholders. Through Presidential Regulation No. 75 of 2014, KPPIP<sup>41</sup> has the privilege of being the coordinating unit in the decision-making process to address problems related to the lack of coordination between stakeholders, facilitate ‘debottlenecking’ efforts (removing blockages), provide support for priority projects and provide incentive and disincentive schemes for acceleration project realization (KPPIP 2016)<sup>42</sup>.

In 2021, the government through the Committee for the Acceleration of Providing Priority Infrastructure (KPPIP) has succeeded in pushing for the completion of 24 PSNs. Cumulatively, progress has been made for each phase of the PSN project with details of 47 projects and 3 programs still in the preparation stage, 10 projects in the transaction stage, 89 projects and 1 program in the construction phase, 26 projects and 6 programs that have been partially operational and 36 projects PSN has been declared complete (KPPIP, 2021).

Even so, there are various obstacles in efforts to complete the PSN from the aspects of governance, regulation, and coordination as well as land acquisition. One of the government’s efforts to resolve this problem is by issuing Government Regulation (PP) Number 42 of 2021 concerning Ease of National Strategic Projects and Presidential Regulation (Perpres) Number 66 of 2020. Second, this regulation mandates KPPIP to coordinate with the State Asset Management Agency (LMAN) to support the acceleration of the land acquisition process.

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<sup>40</sup> Bappenas coordinates the planning process for projects financed by external loans. Several foreign loan planning documents have been collected, including the List of Medium Term Foreign Loan Plans or the List of Medium Term Foreign Loan Plans (DRPLN-JM)/Blue Book and the List of Priority Plans for Foreign Loans (DRPPLN)/Green Book.

<sup>41</sup> KPPIP is encouraged to be more strategic by having an important role in the development and implementation of priority projects, from project selection to groundbreaking, just like the Project Management Office (PMO) for priority projects.

<sup>42</sup> The problem is, there is an overlapping situation between KPPIP’s priority projects and bluebook recommendation projects from Bappenas, MP3EI projects or certain projects nominated by Institutions and Agencies. These projects can be proposed overlapping from KPPIP, Bappenas, Local Government or through various available mechanisms to attract international funding and/or funding.

Indonesia is currently ranked 44th out of 53 countries in the 2022 World Competitive Year Book report. There are four aspects that serve as indicators in the ranking, one of which is related to infrastructure. Therefore, the existence of PSN has regulatory support such as Presidential Regulation No. 109/2020 concerning the Acceleration of the Implementation of National Strategic Projects and also Government Regulation Number 42/2021 concerning Facilitation of National Strategic Projects are seen as urgently needed. With these regulations, it certainly supports PSN starting from planning, project preparation, ease of transactions, construction, and related to operations and maintenance.

Another institutional reform agenda is to establish the Central Public Private Partnership Unit (P3CU)<sup>43</sup> as an independent, centralized organization dedicated to various KPBU-related functions, such as policy formulation, provision of guidelines, and information dissemination. It will have access to fiscal budget allocation decisions. This special unit will be placed under a high-level political leadership and decision-making body with authority to coordinate across planning and fiscal agencies; decide on inter-ministerial conflict resolution; and encourage legislative reform.



Photo : pxhere.com

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<sup>43</sup> The P3CU itself is responsible for ensuring policy consistency, quality control and transparency, establishing standards and principles that all transactions must follow, and monitoring implementation for compliance. This unit is encouraged to assist relevant ministries and local governments in identifying, preparing, and implementing KPBU projects, including prioritizing KPBU projects according to their development impact and readiness for implementation. P3CU will also review project evaluations carried out by the KPBU node, assess requests for Government support for KPBU projects and coordinate this support with the Ministry of Finance, issue KPBU project status reports and disseminate relevant information, prepare guidelines and manuals for KPBU projects, and capacity building in KPBU node (Bappenas 2015).

Meanwhile, in order to answer the need for funding sources, in the RPJM, infrastructure development will be funded 50 percent from the APBN, 19 percent from State-Owned Enterprises (BUMN), and 31 percent from the private sector. To help meet these funding needs, the government established two large financial institutions, namely PT Indonesia Infrastructure Finance (IIF) and PT Penjamin Infrastruktur Indonesia (Indonesian Infrastructure Guarantee Fund or IIGF)<sup>44</sup>. IIF itself is a subsidiary of PT Sarana Multi Infrastruktur (SMI) which has been established as a private non-bank financial institution to provide debt financing and equity participation. PT PII operates through a guarantee mechanism to increase funding through a public-private partnership (KPS) mechanism.

The KPBU scheme encourages private sector participation to help overcome financing challenges. To complement this, the government has been looking for financing alternatives, the latest being the Government Non-Budget Investment Financing or PINA scheme. PINA was used to build nine toll roads as a pilot project. The initial capital for PT Waskita Toll Road came from SMI and the state pension fund PT Taspen (Persero).

However, the steps taken by the government to prioritize infrastructure development have gradually failed to resolve latent problems, namely inefficiency, mismanagement and corruption. The World Bank, for example, gave a sharp spotlight by calling infrastructure projects in Indonesia of low quality, unprepared, and not well planned. It is considered that this will continue to be the main obstacle for the Government of Indonesia to mobilize more private capital into various infrastructure development projects.

The choice of procurement method was decided too prematurely before in-depth analysis. For example, through the Government Cooperation with Business Entities (KPBU) scheme, business to business (B2B), or through public financing. In fact, other countries prioritize a gradual study and analysis process, before finally making a decision regarding the appropriate procurement and financing scheme. In contrast to a number of other countries which have previously completed a Final Pre-Feasibility Study or Final Business Case (FBC) to provide a full understanding of the project, in Indonesia, the decision to use the KPBU

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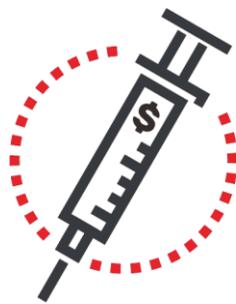
<sup>44</sup> In December 2015, the Ministry of Finance issued Minister of Finance Regulation No. 232/PMK.06/2015 concerning the Implementation of the Transfer of Government Investment in the Government Investment Center to become State Equity Participation (PMN) in the Sarana Multi Infrastruktur Company (PT SMI), which became the basis for PT SMI's additional capital of IDR 18.4 trillion. Prior to the additional capital, the Government's equity participation in PT SMI was limited to IDR 2 trillion. Together with the PMN, PT SMI has developed its role as a center for infrastructure financing in Indonesia with the capacity to provide funding to BUMN, BUMD and Regional Governments in infrastructure development. In addition, the provision of government guarantee mechanisms was also expanded. Previously, guarantees could only be given to projects with a KPBU scheme, through the issuance of Presidential Regulation No. 82 of 2015 concerning Central Government Guarantees for Infrastructure Financing Through Direct Loans from International Financial Institutions to SOEs, the scope of projects that can obtain guarantees is expanded. This guarantee can be given to SOEs where the capital or share ownership is wholly owned by the Government. Guarantees are also given to SOEs that have been assigned through a Presidential Regulation. Therefore, the number of projects that can be guaranteed by PT PII can also increase.

scheme was made even before the Preliminary Pre-Feasibility Study or Outline Business Case (OBC) available.

In addition, the World Bank also revealed that initial analyzes provided by the Government Contracting Agency (GCA) were often incomplete and their reliability was questionable. Prior to being proposed to the National Development Planning Agency (Bappenas), GCA is required to prepare preliminary studies related to the legal, technical, economic, commercial, environmental and social aspects of the KPBU project. But in practice, GCA rarely does this.

One of the other highlights given is also related to the assignment scheme given by the Jokowi government to State-Owned Enterprises (BUMN) in infrastructure development. In the report entitled "Infrastructure Sector Assessment Program" edition of June 2018<sup>45</sup>, the World Bank stated that to carry out the assignments given, it is not uncommon for the government to give privileges to these state-owned companies.

Privileges are granted in several forms. First, providing capital injections in the form of State Equity Participation (PMN). It was recorded that in 2015 the government provided capital injections of IDR 41.4 trillion for 36 BUMNs, half of which were used for infrastructure development. Even during the Covid-19 pandemic, a number of BUMNs were continued, even given a high proportion of additions through PMN.



In 2015,  
the government injected  
**Rp. 41.4 Trillion**  
for **36 SOEs**.

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<sup>45</sup> CNN Indonesia. (2019). *Bank Dunia Kritik Pedas Infrastruktur Jokowi*. <https://www.cnnindonesia.com/ekonomi/20190103124543-532-358206/bank-dunia-kritik-pedas-infrastruktur-jokowi>, accessed on June 17 2023.

Last May 2023, the Attorney General's Office named the Main Director of Waskita Karya (Persero), Destiawan Soewardjono, and a number of other members of the board of directors as suspects in the case of alleged misappropriation of supply chain financing funds for PT Waskita Beton Precast Tbk, a subsidiary of Waskita. The modus operandi is not far from inflating costs to fictitious budgeting, which in this case uses fake documents to finance a number of fictitious projects, and is alleged to have caused losses to the state of up to IDR 2.55 trillion.

Waskita is not the first BUMN to be involved in a corruption case. In 2018, the KPK named state-owned construction company PT Nindya Karya as a suspect for alleged corruption during the construction of Sabang port in Aceh.

Corruption crimes in state-owned construction companies are also seen as the result of projects assigned by the government which are shortcuts to avoid the budgetary rights of the House of Representatives. In working on a project, companies have to look for loans here and there. SOE projects are also assigned without going through an open discussion process in the DPR, which results in minimal transparency and control mechanisms that tend to be weak. All practical decisions are only in the hands of the Minister of SOEs as the representative of government shareholders. This condition clearly creates a moral hazard because the project has the potential to be misused as a means of political retribution.



*Foto: colourbox.com*

Another problem is the reduced opportunity for private sector investment in infrastructure development. The World Bank observes that the capital injections, incentives and facilities provided to SOEs in carrying out assignments have made state-owned companies tend to gain the upper hand in tenders and tenders for infrastructure projects. This facility has ultimately reduced the competitiveness of the private sector against BUMN, thereby limiting the opportunity to compete in a healthy manner.

In addition to the problem of assigning SOEs, the World Bank is also paying attention to the implementation of infrastructure development under the KPBU scheme. The World Bank in its report actually assesses that the government through Presidential Decree No. 38 of 2015 concerning Public Private Partnership in the Provision of Infrastructure has made progress in establishing institutions, instruments and processes so that KPBU scheme projects can run<sup>46</sup>.

However, there are still a number of obstacles that the government must resolve, one of which relates to the quality of project preparation. The World Bank assesses that the government's willingness and capacity to plan projects is still lacking. This problem is exacerbated by the reluctance of Bappenas to reject any proposals that lack planning. In addition to the quality of preparation, the World Bank has also highlighted the poor management of coordination in the implementation of KPBU scheme projects<sup>47</sup>.

During the two periods of Jokowi's leadership, the massive infrastructure development through the "Infrastructure First" paradigm has in turn had a negative impact on society, and often even led to social conflict. With the infrastructure projects being so aggressive, the various development plans that had been prepared had to be violated in the name of space and land politics, as happened in the violation of the Spatial Plan for the Special Region of Yogyakarta in the construction project of a new airport.

The same paradigm has also been adopted through the National Strategic Projects (PSN) scheme prioritizing large-scale investments to boost economic growth launched in 2016. 'Sale' investments above IDR 100 billion (US\$7 million) will benefit from accelerated land acquisition and guarantees that investors and their projects will not face political obstacles.

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<sup>46</sup> *Bank Dunia Sebut Proyek Infrastruktur RI Berkualitas Rendah*. CNN Indonesia. 2019  
<https://www.cnnindonesia.com/ekonomi/20190107100702-532-358930/bank-dunia-sebut-proyek-infrastruktur-ri-berkualitas-rendah/> accessed on June 17 2023

<sup>47</sup> In providing support to the private sector wishing to enter into a PPP scheme project, coordination between related ministries and institutions is considered quite weak. For providing support in the form of infrastructure cash support funds (Viability Gap Fund) as well as Availability Payments, many agencies are often involved but are not in one voice. The VGF and AP Instruments are regulated and managed by different directorates general within the MoF, as well as the Ministry of Home Affairs; while the terms of guarantee for such support are managed by PT PII.

Economists have previously raised concerns that the scheme will increase the external debt of the state-owned company tasked with leading implementation. Meanwhile, elements of civil society organizations are also worried that such a project will trigger a wave of corruption at every level of government. Another worrying situation is the increase in land conflicts related to PSN. The Consortium for Agrarian Reform (KPA) recorded 293 conflicts related to National Strategic Projects reported between 2016 and 2019<sup>48</sup>.

The US\$5.5 billion Jakarta-Bandung high-speed rail line, led by PT Kereta Api Indonesia China (KCIC) for example, is the most high-profile example of a National Strategic Project leading to conflict. Originally scheduled to become operational in 2019, that date has been pushed back to 2023 amid delays caused by a number of issues including damage to homes and waste disposal.

KPA's 2021 annual report shows that infrastructure development is now second only to plantations in terms of land conflicts with indigenous peoples and local communities in Indonesia. This situation could seriously worsen after the passage of the Job Creation Law<sup>49</sup>, a set of regulations designed through omnibus legislation to increase investment by reducing regulatory requirements for business permits and land acquisition.

Fears of escalating land-related conflicts were inevitable after the passage of the Omnibus Law, despite strong opposition in court by environmental groups, trade unions and indigenous peoples' organizations. For many civil society organizations, several articles in the law undermine environmental protection and can increase the risk of biodiversity loss<sup>50</sup>. The presence of the Omnibus Law in this case ignores the community's approval requirements and ignores ecological, social and cultural aspects, which directly violate the rights of indigenous peoples. Construction of PSNs is often carried out without meaningful consent and participation, and it is easy to deploy police forces against communities who refuse to surrender their lands.

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<sup>48</sup> Republika. (2022). *KPA: Konflik Agraria Akibat Proyek Strategis Nasional Meningkatkan Tajam*. <https://news.republika.co.id/berita/r5ar6w409/kpa-konflik-agraria-akibat-proyek-strategis-nasional-meningkat-tajam-pada-2021>, accessed on July 12 2023.

<sup>49</sup> Law No.11 of 2020 on Job Creation (*UU Cipta Kerja*) amended 79 laws and regulations in most sectors of the economy. This law was enacted with the aim of increasing the ease of doing business in Indonesia by eliminating administrative inefficiencies and simplifying the licensing process in various business sectors in Indonesia, including the infrastructure sector.

<sup>50</sup> In November 2021, the Indonesian Constitutional Court ruled that the Omnibus Law of Law Number 11 of 2020 was "conditionally unconstitutional" and ordered the Government and Parliament to "make the necessary adjustments" within two years, or it will be declared null and void. However, the Government then issued a Job Creation Perppu, and it was easily re-enacted together with the DPR in the form of Law Number 6 of 2023.

The Lambo Dam project on Flores Island is one clear example. The project intended for irrigation is currently funded through the state budget, led by state-owned enterprise PT Indra Karya. For years, indigenous peoples in Lowo Se, Malapoma and Rendu Butowe, whose land is to be used for the dam, have voiced opposition, but the protests have gone unheard. The last incident occurred in December 2021, when the people of Rendu blocked the road to prevent the arrival of a team carrying out field observations at the construction site. Residents through the Forum for Rejecting the Construction of the Lambo Dam (FRLDD)<sup>51</sup> accused the team of entering customary territory without permission. In response, the local government sent in armed police, which led to the inevitable fights, with local women who were at the forefront of the protests.

Not long after the conflict broke out in Lambo, on February 8 2022 to be precise, another survey of andesite mining land by the National Land Agency in Wadas Village, Purworejo, Central Java, also ended in chaos. Villagers who never agreed with the construction tried to stop it by blocking roads. The police again responded with violence, beating and arresting villagers. The village was patrolled for days before Komnas HAM called off the police operation.

The situation that occurred in Lambo and Wadas is a concrete example of the Job Creation Law being used to support a National Strategic Project<sup>52</sup>. Many believe that the government will continue to boost the project, because they really need andesite from Wadas to build the Bener Dam, which is located along the Bogowonto River in Purworejo, Central Java. The hydroelectric power project is planned to be about 160 meters high, making it the tallest dam in Indonesia. According to the Ministry of State-Owned Enterprises, the Bener Dam will cost Rp 2.06 trillion (US\$143 million). The project, which is still struggling with land acquisition, is led by BUMN PT Waskita Karya which is also part of the Jakarta-Bandung railway project.

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<sup>51</sup> FRLDD is an initiative consisting of three indigenous communities namely Rendu, Ndora and Lambo, all of whom oppose the construction of the Lambo dam.

<sup>52</sup> A total of 36 global investors have written an open letter expressing concern about the Omnibus Law. These investors are concerned that "the proposed changes to the licensing framework, environmental compliance monitoring, public consultation and sanctions system will have adverse environmental, human rights and labor impacts." Or in other words, it will "raise significant uncertainty and may have an impact on the attractiveness of the Indonesian market."

The Bener and Lambo Dams are both National Strategic Projects and, like the others, have repeatedly sparked land-related conflicts. Not infrequently these projects attract foreign investment, including from China, such as an aluminum smelter in the Bintan Special Economic Zone in the Riau Archipelago Province, and the Semarang-Demak toll road in Central Java. Another example is nickel mining on Halmahera Island, North Maluku. This situation is also closely related to Presidential Regulation No. 30 of 2015 concerning Land Acquisition for Government Projects which facilitates private investment during the land acquisition process which can be "refunded from the APBN based on an estimated return on investment".

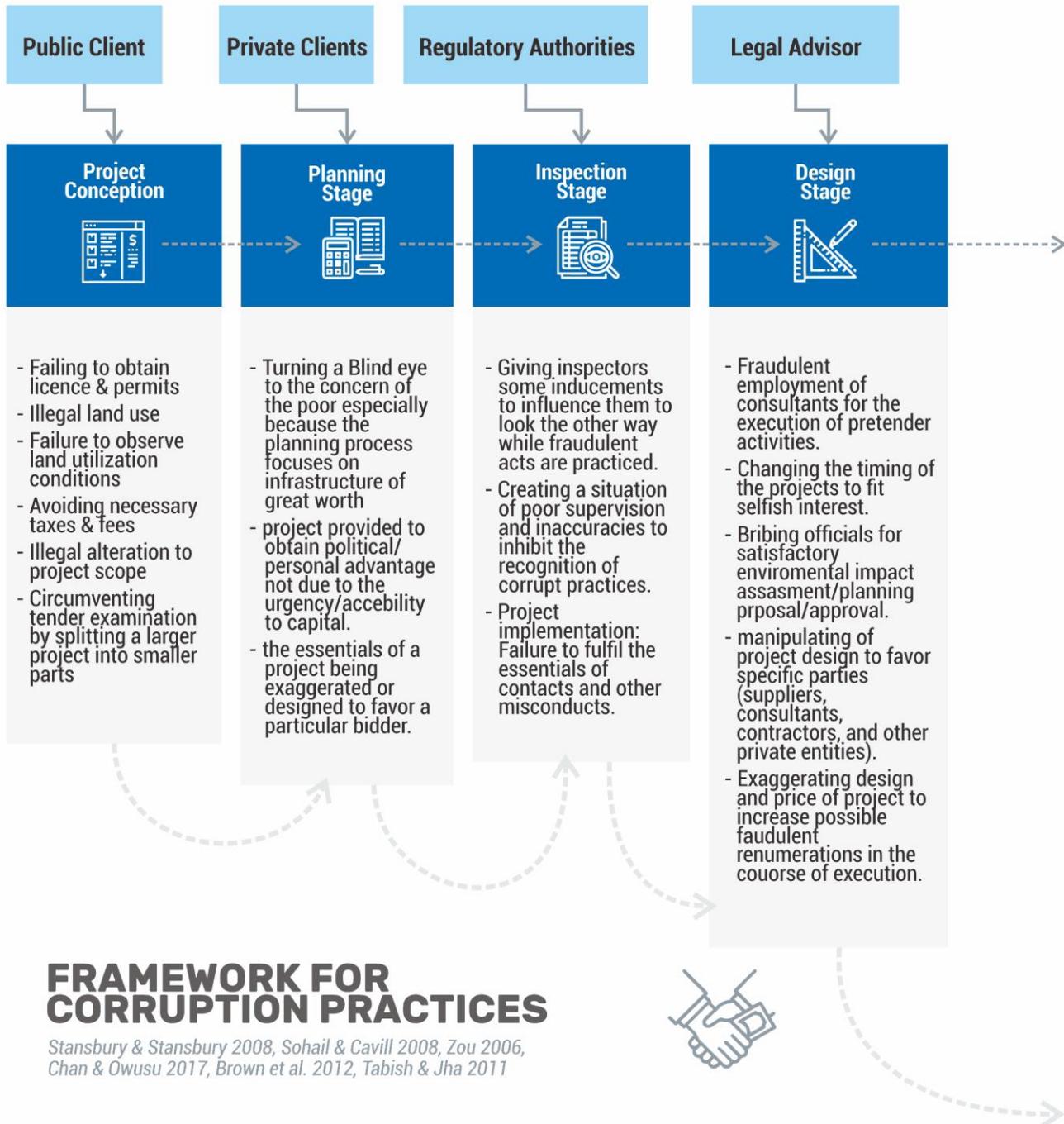
In dealing with conflicts between local communities and businesses implementing projects, the Jokowi administration in 2017 issued Presidential Regulation Number 62 of 2018 concerning Management of Social Community Impacts in the Framework of Provision of Land for National Development. However, this regulation actually tends to be repressive towards society. There is an article which states that the security forces can intervene if necessary. This rule also regulates how existing projects can run easily.

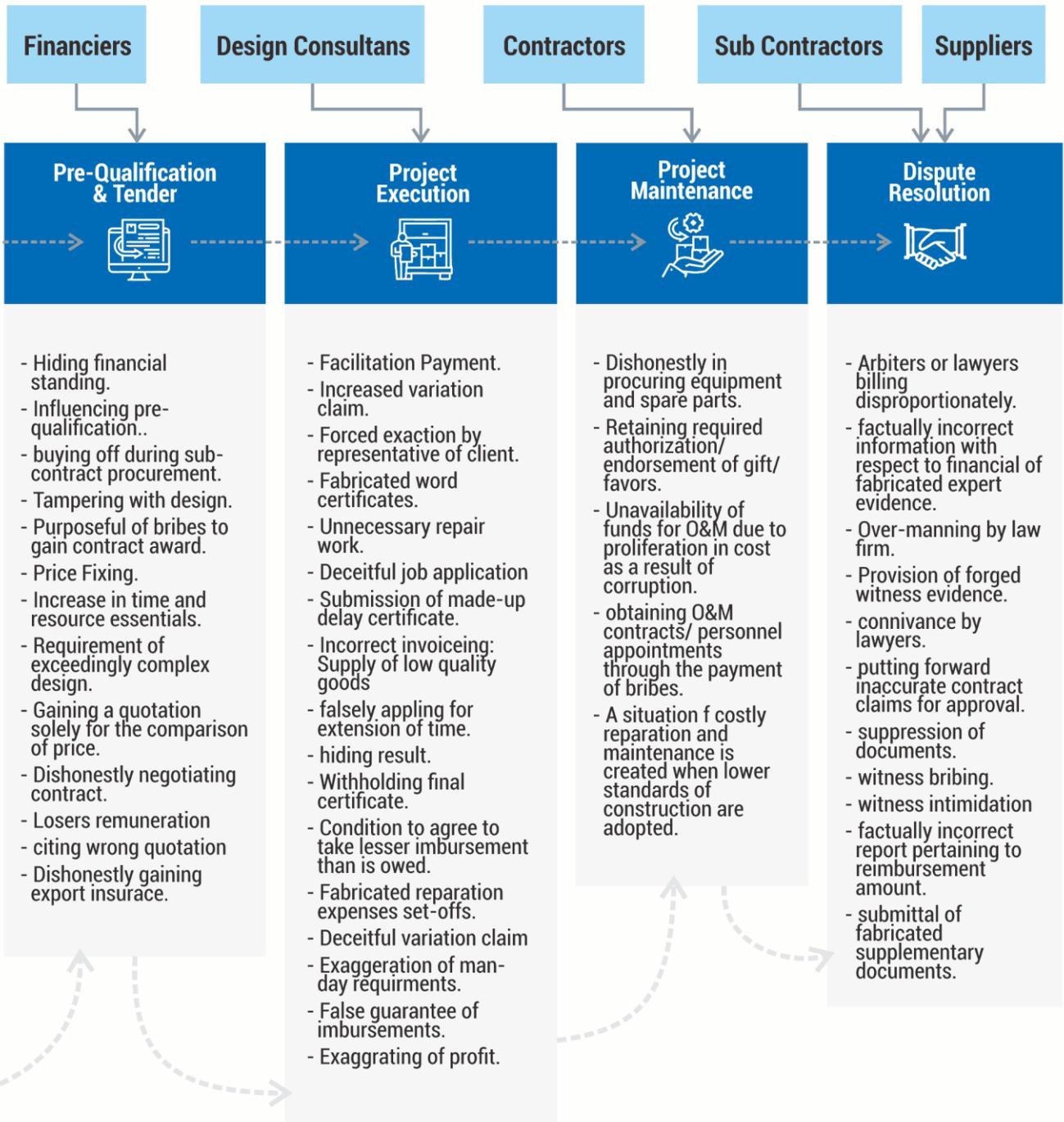
#### **D. Corruption Risk in the Infrastructure Project Planning Stage**

The problem of corruption in the context of procurement planning is in the condition of the infrastructure market, where rules related to fair competition will determine whether there is a monopoly or oligopoly, including the choice to hand over this work to the private sector (privatization), or to be carried out by the state itself, for example through a State-Owned Enterprise. State (BUMN). In addition, the supervisory system is supported by adequate and functioning institutions.

The second situation that is still related to corruption at the planning stage is the decision taken by the government to finance infrastructure projects. This includes the financing model, such as whether the government's budget is pure, or using KPBU (Public-Private Partnership), as well as whether the private investment system where the form of payment is concessions, the amount of budget allocation, the type of project to be undertaken, the actors involved in decision-making. decisions, including the actors who influence the decision making.

**Figure 3. Mode of Infrastructure Corruption by Stages**





According to Owusu, et.al, (2019), the modes of infrastructure corruption can be divided based on the stages. Various types and forms of corruption can be described as below<sup>53</sup>. At the stage of drafting the project framework, the private sector may fail to obtain the required documents, including permits. Here the potential for bribes can occur to fulfill, speed up, or overcome mandatory requirements that must be met. The land used as project land is constrained because it is problematic, and includes preparing a project plan that is intended to break down large-value projects into small-value packages.

At the planning stage, the public sector or decision makers do not consider the needs of the vulnerable and the poor because they are more focused on developing large-scale and profitable projects. Infrastructure projects are also planned for personal gain or political gain, rather than considering priority needs and available budget allocations. Meanwhile, another problem in the planning stage is that the project design is made for the benefit of the vendor/contractor who will work on the project.

The process of preparing the budget is one of the sources of corruption. There are three points prone to corruption in the budget preparation process, namely:<sup>54</sup>

1. **Budget planning stage,**
2. **Budget budgeting stage, and**
3. **Budget implementation stage.**

Corruption at the budget planning stage generally occurs in the form of distribution and arrangement of "project allotments" and project debts. Partners in general will give some money to unscrupulous government officials in order to get a project in the fiscal year that will be approved, or usually known as the "ijon system". Usually the projects proposed in the budget discussions already have partners who can be invited to make bad agreements. In this stage there is already an agreement on the amount of the commitment fee that will be given if the project is finally approved to be included in the APBN/APBD.

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<sup>53</sup> Owusu, Emmanuel Kingsford, Albert PC Chan, and Ming Shan. "Causal factors of corruption in construction project management: an overview." *Science and engineering ethics* 25 (2019): 1-31. [https://www.researchgate.net/publication/321015746\\_Causal\\_Factors\\_of\\_Corruption\\_in\\_Construction\\_Project\\_Management\\_An\\_Overview](https://www.researchgate.net/publication/321015746_Causal_Factors_of_Corruption_in_Construction_Project_Management_An_Overview), accessed on July 28 2023.

<sup>54</sup> Kementerian Dalam Negeri. (2020). *Pimpinan KPK, "Pencegahan Korupsi Terintegrasi – Sektor Perencanaan dan Penganggaran APBD"*, accessed on [http://binapemdes.kemendagri.go.id/uploads/gallery/02\\_Pencegahan\\_Korupsi\\_Terintegrasi\\_2020.pdf](http://binapemdes.kemendagri.go.id/uploads/gallery/02_Pencegahan_Korupsi_Terintegrasi_2020.pdf), accessed on July 6 2023.

Given this large budget allocation, corruption in the infrastructure sector is prone to occur. In Antonio Estache's notes (2014), there are at least five stages in an infrastructure project whose governance is prone to being distorted by corruption, namely:

1. Design of the market structure of the infrastructure sector, including institutional support for oversight of this sector;
2. Decisions about financing this sector;
3. Procurement of investment, maintenance and operational needs;
4. Construction stage;
5. Submission of project work results.<sup>55</sup>

highlighted the term 'knock on the hammer' money which is often applied by unscrupulous members of the DPR who are perpetrators of corruption. If the 'money knocks hammer' or the cost of the approval is not met, then the discussion or approval of the budget will actually be hampered.<sup>56</sup>

The Wa Ode Nurhayati case is another example that reflects the above mode. On July 16 2023, the KPK carried out the criminal execution of a six-year prison sentence convict in the bribery case of the Regional Infrastructure Adjustment Fund (DPID) and the money laundering crime (TPPU) Wa Ode Nurhayati (former member of the DPR RI Budget Agency). At that time, Wa Ode was proven to have accepted Rp 6.25 billion in bribes from businessmen to ensure that Aceh Besar, Pidie Jaya, Bener Meriah and Minahasa districts were designated as recipient areas for the 2011 DPIP allocation.<sup>57</sup>

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<sup>55</sup> Estache, Antonio. (2014). "Infrastructure and corruption: a brief survey." Working Papers ECARDS 37 (2014). <https://ideas.repec.org/p/eca/wpaper/2013-174923.html>, accessed by July 28 2023

<sup>56</sup> Sindo News. (2020). "KPK Sebut Penyusunan Anggaran Salah Satu Faktor Terjadi Korupsi", accessed on <https://nasional.sindonews.com/berita/1361359/13/kpk-sebut-penyusunan-anggaran-salah-satu-faktor-terjadi-korupsi> accessed by July 6 2023.

<sup>57</sup> Berita Satu. (2013). "Putusan "Inkracht" KPK Penjarakan Wa Ode Nurhayati", accessed on <https://www.beritasatu.com/nasional/126194/putusan-inkracht-kpk-penjarakan-wa-ode-nurhayati> accessed by July 5.

Another example is the corruption case in the form of giving bribes to Deputy Chair of the DPR Energy Commission Eni Maulana Saragih on 13 July 2018 so that Eni would help the owner of Blackgold Natural Resources Ltd Johannes Budisutrisno to get the PLTU Riau-1 project.<sup>58</sup> In another case, the "budget mafia" has also moved since the budget discussion process at the DPR RI Budget Board. Meanwhile, in the corruption case for the construction of the Jakabaring Athletes House in Palembang, for example, Nazaruddin acted as a facilitator between the businessmen and the DPR RI Budget Agency. He offered assistance to a number of companies in obtaining projects in exchange for a fee to be shared with the Ministry of Youth and Sports.

Apart from being a facilitator, Nazarudin also has a number of companies that often work on government projects. Nazar, also acts as a broker to distribute work projects to companies that have befriended him. In some cases, certain projects are deliberately designed to be carried out by companies that already have special agreements with unscrupulous officials and Banggar members. In addition, politicians have also previously identified large projects in "wet areas" to be carried out by Nazarudin's companies or other companies they facilitate.<sup>59</sup> The three corruption cases above confirm that this kind of mode is indeed common.

While at the budget implementation stage, corruption practices are generally carried out in the process of procuring goods and services<sup>60</sup>. Planning that has been arranged in such a way will continue to determine the winner of the tender. The bidders have usually been conditioned so that those who will be chosen as winners are work partners who have been in collusion since the beginning of the budgeting process. Tender processes that have been made online to minimize fraud can often still be rigged—either for reasons of server down, websites that cannot be accessed or set so that they can only be accessed by certain partners.

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<sup>58</sup> Koran Tempo. (2018). "4 Anggota DPR Terjerat Kasus Korupsi di KPK Selama 2018" accessed from [https://nasional.tempo.co/read/1159471/4-anggota-dpr-terjerat-kasus-korupsi-di-kpk-selama-2018?page\\_num=2](https://nasional.tempo.co/read/1159471/4-anggota-dpr-terjerat-kasus-korupsi-di-kpk-selama-2018?page_num=2) accessed by July 9 2023.

<sup>59</sup> ICW. (2011). *Membongkar Mafia Anggaran DPR*, <https://www.antikorupsi.org/id/article/membongkar-mafia-anggaran-dpr> accessed by July 10 2023

<sup>60</sup> The mode of tender arrangement that is often found, for example, is the use of the "5-3-1" pattern where 5 participants submit bids, 3 are selected to pass the technical administration evaluation, and 1 winner comes out. Apart from that, there is also the practice of "arisan", which is a game that is arranged by the companies participating in the tender so that they can work on projects on an equal basis. For example, there were 3 contractors competing for the project, namely PT X, PT Y and PT Z. When PT X advanced, PT Y and PT Z only acted as companion companies so that PT X won. Then on other projects, when PT Y is advanced, PT X and PT Z act as companion companies. And so on until each company gets the opportunity to win the auction evenly.

Reflection on various corruption scandals involving various actors and corporations in infrastructure projects as illustrated above, explains that there are a number of things that need to be observed as **modes of corruption** in the infrastructure sector, especially at the **planning stage** as follows:

1. Bribery involving multiple actors, both construction companies, politicians and executive officials, as happened in the Odebrecht scandal, a family business conglomerate from Brazil, which was once ranked as the world's 18th largest company in the planning and construction category. In 2015, Odebrecht CEO Marcelo Odebrecht was arrested by Brazilian authorities for bribing 415 politicians and 26 political parties. Under further investigation, the company also bribed 600 politicians and government employees in 10 Latin American countries **to win infrastructure tenders and negotiate higher project prices after being determined as the winner.**<sup>61</sup>
2. Bribery to **determine the allocation of infrastructure funds.** In the case of Wa Ode Nurhidayati, a politician from the National Mandate Party (PAN), he was proven to have accepted bribes from 3 businessmen from several regions in the Regional Infrastructure Adjustment Fund (PDID) program. His mode, Wa Ode, in his position as a member of the DPR RI, a member of the Regional Transfer Working Committee for the Budget Agency of the DPR RI, helped several regions to obtain DPID allocations, in exchange for bribes worth between 5-6% of the funds proposed by the regions.<sup>62</sup> The same thing happened in the case of Dewie Yasin Limpo, a politician from Hanura from Commission VII DPR RI who was convicted by the Corruption Court for accepting bribes from the Head of the Energy and Mineral Resources Office of Deiyai Regency, Papua and from businessmen amounting to Rp. 177,700 Singapore Dollars. The purpose of the bribe was for Dewie to help fight for a budget of IDR 50 billion for the construction of a power plant in Deiyai Regency, Papua.<sup>63</sup>

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<sup>61</sup> Campos, Campos, Nicolás, et al. (2021). *The ways of corruption in infrastructure: Lessons from the Odebrecht case*. *Journal of Economic Perspectives* 35.2: 171-90.

<https://www.aeaweb.org/articles?id=10.1257/jep.35.2.171> accessed by April 11 2023

<sup>62</sup> Kompas. (2012). *Wa Ode Divonis Enam Tahun Penjara*.

[https://nasional.kompas.com/read/2012/10/18/19075562/Wa.Ode.Divonis.Enam.Tahun.Penjara?lgn\\_method=google](https://nasional.kompas.com/read/2012/10/18/19075562/Wa.Ode.Divonis.Enam.Tahun.Penjara?lgn_method=google) accessed on May 10 2023.

<sup>63</sup> Kompas. (2016). *Vonis Dewie Yasin Limpo Diperberat jadi 8 Tahun Penjara*,

<https://nasional.kompas.com/read/2016/11/01/16240861/vonis.dewie.yasin.limpo.diperberat.jadi.8.tahun.penjara.hak.politiknya.dicabut> accessed on May 10 2023.

3. Bribery to **manipulate the bidding process by making a list of work compiled by the prospective partners themselves who will implement the project**. This case involved the Regent of Musi Banyuasin, Dodi Reza Alex Noerdin, a Golkar politician, together with the Head of the Musi Banyuasin PUPR Office, Herman Mayori, Head of the Natural Resources/PPK Sector of the Musi Banyuasin PUPR Service, Eddi Umari, and the Director of PT Selaras Simpati Nusantara as a private party. Dodi also determines the distribution of the percentage fee for each project, where for himself it is 10%, while the figure is smaller for his subordinates.<sup>64</sup>

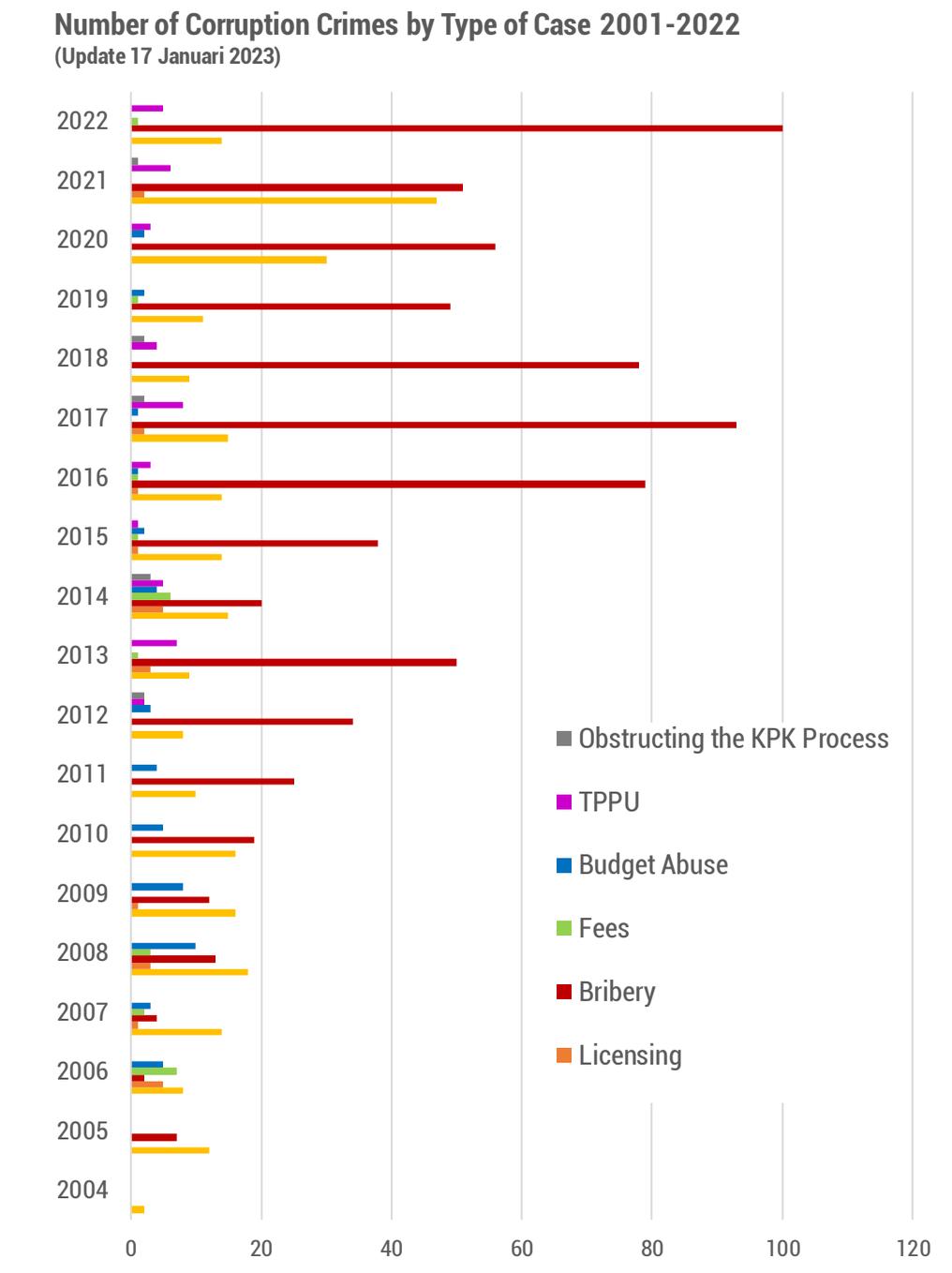
From the various examples above, there is a number of key information which can be explained as follows:

1. At the planning stage of an infrastructure project, **there are already various actors involved**, ranging from politicians, members of parliament, contractors or potential tender winners who negotiate or agree to smooth out certain projects. Even the role of the private sector, as in the case of Dodi as the Regent of Musi Banyuasin, for example, was very prominent at the planning stage. Meanwhile, the dimensions of the technocratic planning, where whose needs, and what type of infrastructure is needed by the wider community, are not included in the calculation.
2. At the planning stage of an infrastructure project, **there is certainty about the distribution of fees from the start based on a percentage of the project value**. This situation indicates that the budget for infrastructure projects has been reduced since planning.
3. Bribery in the planning stage **involving multi-stakeholders has various purposes**, both to compile a list of jobs that benefit the conspiring parties, to win the project, to regulate the value of the project, to obtain certain budget allocations from public budget sources (APBN/APBD).
4. On a broader dimension, where **the project involves actors across countries, or in international scale projects, bribery is also prone to occur**. Global regulations largely determine how the treatment of bribery in international tenders, as exemplified by the United States' FCPA (Foreign Corrupt Practices Act), can be used to ensnare the Odebrecht corporation.

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<sup>64</sup> MCW News. (2011). *Tersandung OTT, KPK Tetapkan Putra Alex Noerdin Tersangka Suap*.  
<https://www.mcwnews.com/read/2021/10/17/202110160007/terjaring-ott-kpk-tetapkan-putra-kandung-alex-noerdin-tersangka-suap.html?page=all>, accessed on May 10 2023.

**Graph 3. Number of Corruption Crimes by Type of Case (2004-2022)** <sup>65</sup>



<sup>65</sup> KPK. (2023). *Statistik TPK berdasarkan Jenis Perkara*, <https://www.kpk.go.id/id/statistik/penindakan/tpk-berdasarkan-jenis-perkara> accessed on June 11 2023.

The findings of the Corruption Eradication Commission (KPK) also confirmed that from the 100% contract value, the actual value of infrastructure is generally only 50% left which is used for development, while the rest of the value has been given to the corruptors<sup>66</sup>. Based on the table below, the type of corruption that was mostly handled by the KPK during this period was bribery, including bribery in the infrastructure development sector. As an example of a case, during 2018-2019, the KPK handled 17 cases of corruption in the infrastructure sector<sup>67</sup>.

Furthermore, in 2019, Indonesia Corruption Watch (ICW) noted that there were 561 corruption cases related to infrastructure projects handled by the Corruption Eradication Commission, the Attorney General's Office and the Indonesian National Police with a total state loss of around IDR 3.2 trillion.<sup>68</sup> When compared to 2016, there was a significant increase in both the number of corruption cases related to infrastructure projects and the resulting state losses. ICW records in 2016 also show that the number of corruption cases related to infrastructure projects was 63 cases with state losses of around IDR 486.5 billion, greater than the state losses caused by non-infrastructure corruption of IDR 404 billion.<sup>69</sup>

**Table 5. Convicted of Corruption Crimes related to the Infrastructure Sector <sup>70</sup>**

| No | Officer Name                              | Year of Case | Corruption Case   |
|----|---|--------------|---|
| 1  | Rudy Erawan, Regent of East Halmahera     | 2018         | Corruption in infrastructure development projects under the Ministry of Public Works and Public Housing (PUPR) in 2016. |
| 2  | Marianus Sae, Regent of Ngada             | 2018         | Corruption in a road construction project in Ngada District.  |
| 3  | Abdul Latif, Regent of Hulu Sungai Tengah | 2018         | Corruption in the construction of the Damanhuri Barabai Hospital in 2017.   |

<sup>66</sup> The composition of the bad agreement that has occurred so far is that the contractor takes a profit of 10% -15%, deposits a budget certainty commitment of 7%, a commitment fee of 20%, and manipulation of procurement reports of 5%.

<sup>67</sup> Ary Wahyudi dkk., "KPK Sebut Korupsi Infrastruktur Sangat Tinggi", Koran Tempo, accessed from <https://koran.tempo.co/read/nasional/446780/kpk-sebut-korupsi-infrastruktur-sangat-tinggi>, accessed on January 15 2023.

<sup>68</sup> KPK. *Ibid*

<sup>69</sup> Tirto ID. (2017). *Membongkar Korupsi Proyek Infrastruktur*. <https://tirto.id/membongkar-korupsi-proyek-infrastruktur-cfke>, accessed on February 5 2023.

<sup>70</sup> KPK. (2023). *Statistik TPK berdasarkan Jenis Perkara*, <https://www.kpk.go.id/id/statistik/penindakan/tpk-berdasarkan-jenis-perkara> accessed on June 11 2023

|    |   |      |   |
|----|---|------|---|
| 4  | Pangonal Harahap,<br>Regent of Labuhan<br>Batu            | 2018 | Corruption in various development projects in Labuhan Batu in 2018.   |
| 5  | Zainudin Hasan,<br>Regent of South<br>Lampung             | 2018 | Corruption in road construction projects in South Lampung.  |
| 6  | Ahmadi, Regent of<br>Bener Meriah                         | 2018 | Corruption in infrastructure development projects sourced from the 2018 Aceh Special Autonomy Fund.   |
| 7  | Irwandi Yusuf,<br>Governor of Aceh                        | 2018 | Corruption in infrastructure development projects sourced from the 2018 Aceh Special Autonomy Fund and the construction of the Sabang Pier. |
| 8  | Syahri Mulyo, Regent<br>of Tulungagung                    | 2018 | Corruption in infrastructure development projects and road improvement in Tulungagung.  |
| 9  | Muhammad<br>Samanhudi Anwar,<br>Mayor of Blitar           | 2018 | Corruption in the construction of a junior high school in Blitar.   |
| 10 | Remigo Yolando<br>Berutu                                  | 2018 | Corruption in procurement projects at the PUPR Service.   |
| 11 | Mustofa Kamal Pasa,<br>Regent of Mojokerto                | 2018 | Corruption in the construction of telecommunication towers in Mojokerto Regency 2015.   |
| 12 | Khamami,<br>Regent of Mesuji                              | 2019 | Corruption in infrastructure development projects at the Mesuji PUPR Service.   |
| 13 | Ahmad Yani, Regent<br>of Muara Enim                       | 2019 | Road construction project corruption in Muara Enim.   |
| 14 | Nurdin Basirun,<br>Governor of<br>Kepulauan Riau          | 2019 | Reclamation project corruption in the Kepulauan Riau.   |
| 15 | Sri Wahyuni<br>Maria Manalip                              | 2019 | Corruption in the Lirung Market and Beo Market revitalization project.  |
| 16 | Agung Ilmu<br>Mangkunegara,<br>Regent of North<br>Lampung | 2019 | Corruption in a traditional market development project in North Lampung.  |
| 17 | Supendi,<br>Regent of Indramayu                           | 2019 | Project corruption at the Indramayu Regency PUPR Service.   |

Then based on the report of KPK Deputy Chairman Nurul Ghufron, from 2020 to March 2021 there were 36 cases of infrastructure corruption,<sup>71</sup> including corruption committed by the Governor of South Sulawesi and the Regent of East Kutai. Whereas at the beginning of 2022, there were 3 (three) Regional Heads who were caught red-handed by the KPK<sup>72</sup>, namely the Regent of Langkat, the Regent of North Penajam Paser and the Mayor of Bekasi, as a result of accepting bribes/gratifications in order to get work packages at the PUPR Service.

Based on the data above, the most corrupted infrastructure objects are road construction projects by 35%; market 15%; mosques, bridges, water, houses, and distribution networks each 5%, and others 20%.<sup>73</sup> Corruption in infrastructure development usually occurs from the start of planning to the monitoring stage.



<sup>71</sup> Kompas. (2021). *Ada 36 Kasus Korupsi Infrastruktur, Pengamat Minta Kementerian PUPR Bentuk Tim Whistleblower*, <https://www.kompas.com/properiti/read/2021/03/16/220000821/ada-36-kasus-korupsi-infrastruktur-pengamat-minta-kementerian-pupr?page=all>, accessed on February 13 2023

<sup>72</sup> Alinea. (2020). *Menutup lubang "tikus-tikus" korupsi infrastruktur kepala daerah*, accessed from <https://www.alinea.id/nasional/menutup-lubang-tikus-korupsi-infrastruktur-kepala-daerah-b2feU9Bq1> accessed on April 3 2023.

<sup>73</sup> KPK. *Ibid*



Foto: [sewellbeard.com](http://sewellbeard.com)

## IV. RISK OF CORRUPTION IN INDONESIAN INFRASTRUCTURE PROJECTS

The ICRAT assessment in Indonesia found that indications of corruption risk tended to vary, with very high corruption risks predominated. The assessment of the Jakarta-Bandung Fast Train (KCJB) and P3SON Hambalang projects is at a very high level of corruption risk. Meanwhile, the Balang Island Bridge project in the Capital City of the Nusantara (IKN) is at a high level of corruption risk, and the Sidrap I Wind Power Plant project is at a moderate level.

**Table 6. ICRAT Assessment Results in Indonesia**

| Projects Monitored   | Vulnerability | Risk Classification | Context Assessment   | Indicative Risk of Corruption |
|--|---------------|---------------------|--|-------------------------------|
| 1. Jakarta-Bandung Fast Train (KCJB)                                       | Substantial   | 5 (very high)       | 8.5 ( <i>Very High, which may have undue influence or corruption</i> )           | Very High                     |
| 2. Balang Island Bridge project in the Capital City of the Nusantara (IKN) | Significant   | 4 (high)            | 7.9 ( <i>High, an area highly susceptible to undue influence or corruption</i> ) | High                          |
| 3. P3SON Hambalang   | Substantial   | 4 (high)            | 7.9 ( <i>High, an area highly susceptible to undue influence or corruption</i> ) | Very High                     |
| 4. Sidrap I Wind Power Plant   | Moderate      | 4 (high)            | 7.2 ( <i>High, an area highly susceptible to undue influence or corruption</i> ) | Moderate                      |

ICRAT's assessment of regulatory and institutional dynamics related to infrastructure development through the eyes of these four government projects is essential as a foundation for understanding existing political interests and challenges. It is clear that the government in the post-Soeharto era, especially during President Jokowi's administration, was faced with a different political context, namely democracy and decentralization.

In the reform era, the central government could no longer use military force to acquire land needed for infrastructure projects. In contrast, the government in the democratic era had to rely on court decisions, a lengthy process that did not always favor the developer or the government. On the other hand, the decentralization of powers places a situation where local governments sometimes fail to support the central government's infrastructure plans because there are no incentives (direct or indirect) for local government officials.

This situation of a less-strong central government means that it also causes the ambition to build large infrastructure projects in more than one province to become more complex. Facts on the ground show that the situation is that the central and regional authorities in Indonesia lack cooperation and coordination, which is generally caused by the poor quality of human resources at the local level. Meanwhile, Indonesia's long and complex bureaucratic chain has also contributed to the delay (or even the total cancellation) of an infrastructure project.

This complexity is exacerbated by the close relationship between political elites and corporations in Indonesia (both at the central and regional levels). The two groups use infrastructure development instruments to increase their welfare and expand their power, not the welfare of the people. In that context, it is also important to understand that infrastructure problems can occur due to informal and extra-parliamentary issues, such as when local elites are more likely to give concessions to friendly companies (which may have helped finance their campaigns), even though from a performance perspective, companies -This company was unable to complete the project.

One of the other problems in infrastructure development in Indonesia is related to funding sources through KPBU arrangements. From the point of view of investors, the current KPBU framework is still characterized by unclear rules, complicated processes, complex bureaucracy, and the breakdown of coordination between the Central and Regional Governments. Many projects driven using KPBU schemes are not designed, documented, and structured according to international best practices. Many risks associated with project development, delivery of raw materials, and even finances fall into the hands of the private sector, even though this has traditionally been the government's responsibility. As a result, investors are reluctant to get involved in the development of infrastructure projects.<sup>74</sup>

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<sup>74</sup> Responding to this complexity, the presence of Presidential Regulation no. 38 of 2015 concerning Cooperation between the Government and Business Entities in the Infrastructure Sector, in lieu of Presidential Regulation Number 67 of 2005 and its amendments, has stipulated clearer and more detailed provisions, including unsolicited proposals, up to cooperation agreements and Government support and guarantees for projects. This guarantee allows for a performance-based annuity scheme which is a more suitable risk model for many KPBU projects proposed in Indonesia.

Apart from that, the ups and downs of the journey of infrastructure development in Indonesia during Jokowi's time were also very thick with spatial politics. Apart from the lack of financial resources, land acquisition is a central issue for understanding the constraints of infrastructure development. Disputes between the State and landowners, coupled with the complexity of the involvement of corporations, tend to be answered unilaterally through mechanisms of forced land acquisition, with minimal dialogue and public participation.

However, in reality, the presence of the Law on Land Acquisition for Public Interest failed to accelerate infrastructure development because of its highly repressive policy style. At that time, the SBY administration seemed to be turning its back when land conflicts occurred because the level of popularity continued to decline due to corruption cases that ensnared his party. While Jokowi's government appears to be aggressive in accelerating land grabbing, despite the rejection by many residents, this is because Jokowi enjoys strong support from the coalition party government, parliament, and business people.

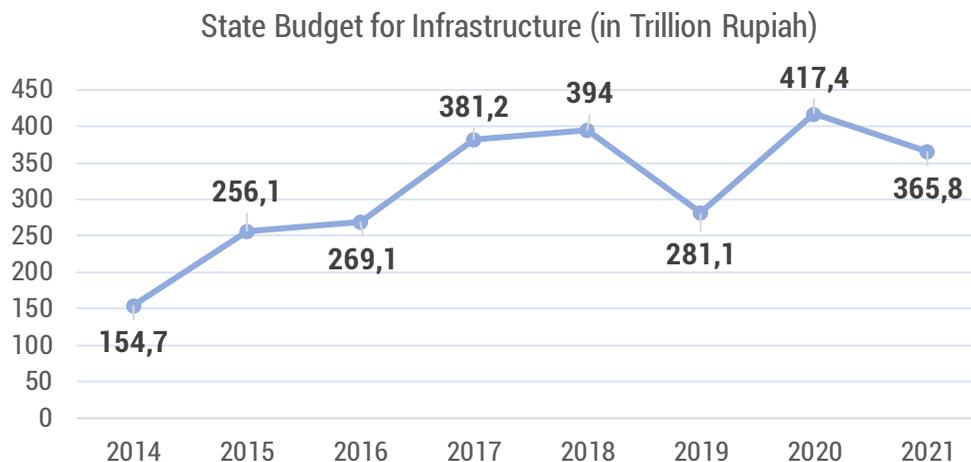
Meanwhile, spending on the infrastructure sector is also public spending that costs much money, so it is essential to be monitored by the public<sup>75</sup>. In the APBN structure, as an example, the allocation for infrastructure is always above IDR 100 trillion every year. The above is the amount of the APBN infrastructure budget from 2014 to 2022.

In 2023, the Government has budgeted Rp 392 trillion for infrastructure development costs next year, up 7.75% compared to the 2022 State Budget of Rp 363.8 trillion. However, Minister of Public Works and Public Housing Basuki Hadimuljono said there would be no new infrastructure development in 2023 and only continue existing development. The allocation for the PUPR Ministry was recorded at IDR 125.5 trillion.

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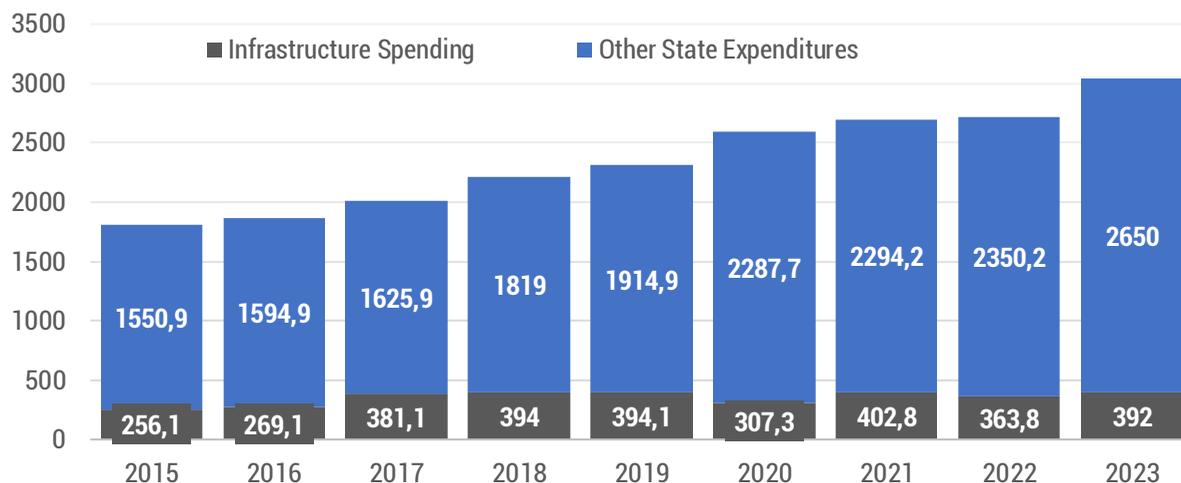
<sup>75</sup> The infrastructure budget in the APBN itself can be classified into three major groups: economic infrastructure, social infrastructure, and infrastructure support. Economic infrastructure is intended for the development (including maintenance) of facilities and infrastructure needed in the context of smooth mobility of the flow of goods and services and smooth production processes.

**Graph 4. State Budget for Infrastructure Financing (2014-2022)<sup>76</sup>**



The IDR 392 trillion Infrastructure Budget will be directed to support strengthening the provision of basic services, increasing productivity through connectivity and mobility infrastructure, building energy and food infrastructure that is affordable, reliable, and protecting environmental aspects; as well as equitable distribution of ICT infrastructure and access.

**Graph 5. 2015-2022 Realization Portion, and 2023 Outlook for the Infrastructure Sector<sup>77</sup>**



<sup>76</sup> Kata Data. (2022). *Anggaran Infrastruktur Turun Jadi Rp 365,8 Triliun pada 2022*. <https://databoks.katadata.co.id/datapublish/2022/04/07/anggaran-infrastruktur-turun-jadi-rp3658-triliun-pada-2022> accessed on August 1 2023

<sup>77</sup> Kata Data. *Ibid.*

However, even though it is still of enormous value, the portion of the infrastructure budget for state spending has been on a downward trend since 2017. In 2017, infrastructure realization almost reached 19% of APBN spending, while for 2023 this figure will shrink to 13%. Included in this classification are various activities, both in Ministries/Agencies, non-Ministries/Institutions, transfers to regions and village funds, as well as budget financing, which among others are related to transportation, irrigation/irrigation, telecommunication and informatics, housing/settlements and energy sectors such as electricity, oil, and natural gas.

The amount of funds needed to finance infrastructure has encouraged the Government to innovate in financing. This is mainly because the ability of the State Budget to finance infrastructure development during the period 2020 to 2024 is only around 30% (or the equivalent of around Rp. 623 trillion) of the total budget for infrastructure needs of around Rp. 2,058 trillion.<sup>78</sup> A number of innovations that have been made include KPBU and relay financing schemes, blended financing, and a source-to-tap approach. In addition, the Government also expects financing to be carried out through investment, whose sources are targeted to come from BUMN and the private sector.



Photo : foto.wuestenigel.com

<sup>78</sup> Koran Tempo. (2020). *Pembiayaan Kreatif untuk Membangun Infrastruktur*. <https://koran.tempo.co/read/info-tempo/478553/pembiayaan-kreatif-untuk-membangun-infrastruktur> accessed on July 28 2023.

There are several schemes in the KPBU which include:

- **Operation & Maintenance (O&M) Contracts:** Private operators/business entities, under contract, operate Government-owned assets (eg water/wastewater treatment plants) for a certain period of time. Ownership of fixed assets on the part of the Government.
- **Build-Finance (BF):** Private/business entity constructs the asset and finances capital costs only during the construction period.
- **Design-Build-Finance-Maintenance (DBFM):** Business entities design, build, finance assets and provide maintenance services (hard facilities management) under long-term agreements.
- **Design-Build-Finance-Maintain-Operate (DBFMO):** The entity designs, builds, finances, provides maintenance and operations services under a long-term agreement. The operation of assets is also included in projects like this, for example the operation of bridges, roads and water treatment plants.
- **Concession:** A private party/business entity concessionaire invests and operates the facility for a certain period of time, after which time the ownership returns to the government.

In addition, in order to attract private as well as foreign investors, the Infrastructure Working Group (IWG) in Indonesia's G20 Presidency in 2022 has also conducted a series of discussions with 19 representatives of other G20 member countries in order to develop deliverables<sup>79</sup> in the infrastructure sector that brought in for approval in the Forum of Ministers of Finance and Central Banks (FMCBG)<sup>80</sup>.

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<sup>79</sup> Ministry of Finance, Sevi Wening Perwitasari. (2023). A Report from the Fourth Event of the Indonesian Presidency's Infrastructure Working Group (IWG). <https://kpbu.kemenkeu.go.id/read/1158-1472/umum/kajian-opini-publik/manfaat-g20-untuk-investasi-infrastruktur-di-indonesia> accessed on March 28 2023.

<sup>80</sup> At the annual forum, a framework has been developed with four main pillars that are important for efforts to optimally leverage private participation in infrastructure investment, namely: i) Long-term national infrastructure priorities and targets; ii) Definition and data of sustainable infrastructure; iii) An environment that supports implementation; and iv) Financial and technological innovation.

**A. Findings of Corruption Risks in the Selection Stage of Indonesia's Four Infrastructure Projects**

**1. Jakarta-Bandung Fast Train Project (KCJB)**

| <b>INDICATION OF CORRUPTION RISK IN PROJECT SELECTION - INITIAL ASSESSMENT</b> |  |
|--|--|
| <b>Project Name</b>  | Jakarta-Bandung Fast Train Project   |
| <b>Short project description</b>   | <p>The KCJB project is a fast train development project with a track length of 142.3 km stretching from Jakarta to Bandung. This fast train will have four stopping stations: Halim, Karawang, Padalarang, and Tegalluar. This development was carried out by PT Kereta Api Indonesia China (KCIC) which is a joint venture between the PT Pilar Sinergi BUMN Indonesia consortium (consisting of PT Wijaya Karya (Persero) Tbk, PTPN VIII, PT Jasa Marga (Persero), and PT KAI (Persero) and a consortium of Chinese railway companies through Beijing Yawan HSR Co.Ltd. In 2015, the President of the Republic of Indonesia said that the KCJB project was being carried out under a Business to Business (B2B) scheme between Indonesia and China and did not use the State Budget.</p> <p>However, in 2021, President Joko Widodo officially signed Presidential Regulation (Perpres) Number 93 of 2021, an amendment to Presidential Regulation Number 107 of 2015, concerning accelerating the Implementation of Jakarta-Bandung Fast Train Infrastructure and Facilities. Of the several revised articles, the one that has received the most public scrutiny is the revision of Article 4 which states that the Jakarta-Bandung Fast Train project is now permitted to be funded by the state budget.</p> <p>Until now, the project's total cost, which has been ongoing since 2016, has reached USD 7.27 billion, or the equivalent of IDR 108.14 trillion. These costs experienced an increase of IDR 1.2 billion US dollars or around IDR 18.02 trillion. This value has even far exceeded the investment from Japan's proposal through JICA (Japan International Cooperation Agency), which offered the KCJB project of US \$ 6.2 billion.</p> <p>As a result of these cost overruns, the Government of China and the Government of Indonesia agreed on a cost overrun of US\$ 1.2 billion. Of the cost overrun of US\$ 1.2 billion, Indonesia's total loan is around US\$ 560 million, with interest on loans to the China Development Bank (CDB) of 3.4%. In addition, the Chinese government also wants the loan to be guaranteed by the state budget, but the Indonesian government offers that the guarantee can be made through PT Penjaminan Infrastruktur Indonesia (PPI). Another impact of this cost increase was extending the concession period to 80 years.</p> |
| <b>Project owner</b>   | PT Kereta Cepat Indonesia China (KCIC)   |
| <b>Project vulnerability</b>   | Substantial  |

|   |  |
|---|--|
| <p><b>The main vulnerability of the project</b></p> | <ul style="list-style-type: none"> <li>• Goals and Needs</li> <li>• Type of intervention</li> <li>• Location</li> <li>• Size and scope</li> <li>• Fit for purpose</li> <li>• Timing</li> <li>• Possible benefits</li> </ul>  |
| <p><b>Another vulnerability</b></p>                 | <ul style="list-style-type: none"> <li>• Possible beneficiaries</li> <li>• Possible adverse effects</li> <li>• Planned mitigation</li> <li>• Cost and value</li> <li>• Impartiality of funding models, and control measures</li> <li>• Alternatives that are more urgent or of better value</li> <li>• Disaster risk</li> </ul>  |
| <p><b>Governance risk classification</b></p>        | <p>5 (very high; detailed and systematic)</p>  |
| <p><b>Context assessment</b></p>                    | <p>8.3 (<i>Very High (VH)</i>), which is likely to have undue influence or corruption</p>  |
| <p><b>Key governance areas of concern</b></p>       | <p><i>State aspects:</i></p> <ul style="list-style-type: none"> <li>• Legal and judicial system</li> <li>• Finance and public procurement</li> <li>• Cultural hierarchy</li> <li>• Openness to the media</li> <li>• Civil society activities</li> <li>• Perceptions of corruption</li> </ul> <p><i>Institutional Aspect:</i></p> <ul style="list-style-type: none"> <li>• External influences on agency operations</li> <li>• Information disclosure</li> <li>• Budget and program transparency</li> <li>• Grievance mechanism</li> <li>• Institutional reputation and leadership</li> <li>• Personal interests</li> <li>• Community engagement</li> </ul> |
| <p><b>Other areas to be considered</b></p>          | <p><i>State aspects:</i></p> <ul style="list-style-type: none"> <li>• Election process</li> <li>• Access to information</li> </ul> <p><i>Institutional Aspect:</i></p>   |

|   |  |
|---|--|
|   | <ul style="list-style-type: none"> <li>• Executive management</li> <li>• Professional interaction within the institution</li> <li>• Professional and technical capacity</li> <li>• Institution-industry relations</li> </ul>   |
| <b>Type of project selection process</b>                        | A – Detailed and Systematic  |
| <b>Risk of Mismanagement and Undue Influence</b>                | 8.1 (Very High)  |
| <b>Indication of Corruption Risk in Project Selection Cases</b> | Very High  |
| <b>Narrative</b>  | <p>The Jakarta Bandung Fast Train Project was chosen because it is one of the government's National Strategic Projects (PSN) following Presidential Regulation Number 3 of 2016 concerning the Acceleration of Implementation of National Strategic Projects. This project is also important to monitor because it uses a B2B scheme between a consortium of Indonesian State-Owned Enterprises (BUMN) through PT Pilar Sinergi BUMN Indonesia (PSBI) and a consortium of Chinese railroad companies through Beijing Yawan HSR Co.Ltd. During its construction, this project reaped several controversies, both in terms of financing, environmental risk assessment, and employment.</p> <p>The assessment process found that the indication of the risk of corruption in the Jakarta Bandung Fast Train Project was very high (score 5). Therefore, it can be concluded that there are indications of state capture corruption in the KCJB project decision-making. First, it is reasonable to suspect that some officials have involved their interests in ensuring this project continues to be built.</p> <p>This suspicion was followed by an indication that the information about project planning submitted to the President was insufficient. As for the weaknesses in China's offer, it should be suspected that it was not conveyed honestly due to the interest factor. If we go back to reading the actual election context, it appears that there has been a systematic effort to undue influence through the signing of the MoU on the High-Speed Train project.</p> <p>Second, the selection of potential investors is not comprehensive, and the project planning is not mature. It was indicated that the proposal review team did not consider the submitted proposals carefully. This is evident in the stage of project construction when unexpected costs arise, which result in swelling that was not anticipated in the feasibility study, such as during the land acquisition stage. Third, the lack of involvement of external parties and the lack of a checks and balances mechanism.</p> |

|  |  |
|--|--|
|  | <p>Fourth, information related to project legality and feasibility documents seems closed, and almost the public cannot access them. One of the main factors is the poor disclosure of information related to the pre-project work process. Important documents such as project annual reports, audit reports, self-estimated price (HPS), project's frame of reference, contract documents, feasibility study documents, and environmental impact assessment (AMDAL) on the website belonging to the BUMN consortium, including the relevant Ministries to the property PT KCIC itself tends to be unavailable and/or inadequate.</p> |
|--|--|

The Jakarta Bandung Fast Train Project (KCJB) is one of the government's National Strategic Projects (PSN) regulated by Presidential Regulation No. 93 of 2021 concerning the Acceleration of Implementation of Fast Train Infrastructure and Facilities between Jakarta and Bandung as a revision of Presidential Regulation No. 107 of 2015. This project is implemented by PT Kereta Api Indonesia China (KCIC) which is a joint venture between a consortium of Indonesian State-Owned Enterprises (BUMN) through PT Pilar Sinergi BUMN Indonesia (PSBI) and a consortium of Chinese railway companies through Beijing Yawan HSR Co. Ltd, with the business mainly in the public transportation sector with a B2B scheme.

PSBI itself was established through the deed of establishment on 2 October 2015, which consisted of a consortium of 4 BUMNs, namely PT Wijaya Karya (Persero) Tbk (WIKA), PT Jasa Marga (Persero) Tbk, PT Kereta Api Indonesia (Persero), and PT Perkebunan Nusantara VIII. WIKA controls 38% of the shares, PTPN VIII and KAI own 25% each, and Jasa Marga controls 12%. The Indonesian BUMN Consortium holds a 60 percent stake in the High-Speed Railway (HSR) project, while China Railway International Co. Ltd controls the remaining 40 percent.

National Strategic Projects (PSN) are projects implemented by the Central Government, Regional Governments, and Business Entities that have a strategic nature for increasing growth and equitable development to improve community welfare and regional development. National Strategic Projects must meet the elements of basic, strategic, and operational criteria. The basic criteria are compliance with the National/Regional Medium-Term Development Plan and strategic plans for the infrastructure sector and conformity with Spatial and Regional Layout Plans as long as they do not change Green Open Spaces.

Strategic criteria refer to the project's economic benefits, social welfare, defense, national security, inter-island connectivity, and distribution diversity. Meanwhile, the operational criteria that must be met are the existence of a pre-feasibility study, the investment value must be above IDR 100 billion, or the project has a strategic role in encouraging regional economic growth. By entering the list of National Strategic Projects, an infrastructure project gains several advantages in the form of accelerated development because any obstacles, regulations, and permits must be resolved by the relevant ministers, governors, to regents. The Committee for the Acceleration of Providing Priority Infrastructure (KPPIP) determines two additional criteria to measure national strategic projects: commitment to completion and visibility of return on investment.

PSN can also be given guarantees from the central government for projects carried out by business entities or regional governments in collaboration with business entities as long as the infrastructure projects carried out are for the public interest under Presidential Regulation No. 3 of 2016. Guarantees are given in relation to the policies taken or not by the central government, which delays National Strategic Projects and affects the financial condition of business entities. Applications for guarantees can only be submitted by ministries/agencies, regional governments, or state-owned enterprises after the project procurement process has been completed.

Based on Government Regulation of the Republic of Indonesia Number 42 of 2021 concerning the Facilitation of National Strategic Projects, PSN can obtain convenience facilities from the Central Government, Regional Governments, and/or Business Entities, which are given at the following stages: a. planning; b. setup; c. transaction; d. construction, and e. operation and maintenance. In addition to the convenience facilities at the stages above, ministries/agencies and Regional Governments in implementing PSN get procurement facilities.

Initially, this project was targeted to be operational in 2019. However, until the end of 2019, the project progress was around 38%. During 2016-2018, the Jakarta-Bandung high-speed rail project experienced development problems such as land acquisition, location determination, and unpaid loans. The Main Commissioner of PT Kereta Api Indonesia China, Sahala Lumban Gaol, explained that there were 22 critical points in the construction of the project financed by the China Development Bank (CDB). One is in the work on land belonging to the Indonesian Air Force in Halim.

On the land belonging to the Indonesian Air Force, a 2.6-kilometer elevated train line has been built, after which a tunnel will be built. In a further development, the Indonesian Air Force issued letter Number B/65-09/32/16/Disfaskonau dated January 20, 2016, containing a strong refusal to use the Halim Perdanakusumah airfield as a fast train station, even though the Ministry of Defense had recommended it to the Ministry of BUMN. In addition, the execution of construction on the acquired land takes quite a long time because the construction is quite heavy.

During the first three years, the project did not experience significant development due to licensing and land acquisition issues. In 2017, a Facility Agreement for the Financing of Infrastructure and Facilities for the Jakarta-Bandung Fast Train in Beijing was agreed between PT KCIC and the China Development Bank. The signing of the agreement was witnessed by the heads of state of the two parties, President Joko Widodo and President Xi Jinping.

Furthermore, in 2018 a cooperation contract was signed with Cars Dardela Joint Operation (CDJO) as the construction supervisor for the Jakarta-Bandung Fast Train Project. In July 2018, three claims for damages on their property related to this project were made. On the other hand, the Halim Perdanakusuma land use agreement was signed for the Jakarta-Bandung Fast Train station and the route. Then the China Development Bank began disbursing \$170 million in May and another \$1.1 billion in July.

In 2018, the signing of the cooperation contract with CDJO as the construction supervisor for the Jakarta-Bandung Fast Train Project and the Halim land use agreement for the Jakarta-Bandung High-Speed Train station and the route was signed. In 2019, the Coordinating Ministry for Maritime Affairs and Investment Task Force Team began to be intensively involved in the Jakarta-Bandung Fast Train Project, and the land acquisition process along the project's pathway ran massively and smoothly.

Furthermore, in 2020, the construction of the Jakarta Bandung Fast Train Project will reach 65.70%, and the transition will enter the O&M Readiness preparation stage. During the Covid-19 pandemic in 2020, the government stopped all construction projects and focused on handling the pandemic. Construction of the Jakarta-Bandung Fast Train will only be carried out again in mid-2021 after the pandemic cases have begun to subside in the country. In 2021, the Jakarta Bandung / PMO Indonesia China Fast Train Acceleration Team (KCIC) was formed following the Minister of BUMN Number SK-100 / MBU / 03/2021 decision dated March 26, 2021.

The President then made his first official visit to the Casting Yard 1 and Tunnel 1 locations on May 18, 2021. Then the Halim Fast Train Station was topped off and entered the next construction phase on July 30, 2021. In October 2021, the first KCIC 400AF Train Set was produced by the Qingdao Sifang CRRC factory in Shandong, China. Also, this year, the completion of State Capital Deposits (base equity) from the Indonesian BUMN consortium was carried out. In the same month, the DPR approved an injection of Rp. 4.1 trillion in state funds through state capital participation based on Presidential Decree 93/2021.

Then in 2022, President Jokowi visited for the second time the Tunnel 2 location with investment progress of 79.90% on January 17, 2022, and installation of the first rail from the Tegalluar area, which is the depot location to Jakarta on April 20, 2022, and Breakthrough Tunnel 2 on June 17, 2022, which marks the passage of all tunnels in the Jakarta-Bandung Fast Train Project (13 Tunnels).

In December 2022, the Government has again poured the State Budget into the project in the amount of IDR 3.2 trillion as PMN receipts determined based on Government Regulation Number 62 of 2022 concerning Addition of RI PMN to KAI Share Capital on December 31 2022. Until now, the total APBN funds to the project KCJB namely IDR 7.3 trillion. Meanwhile, CBD loans are estimated at US\$4.55 billion or equivalent to Rp.64.9 trillion. As of April 2023, the Ministry of Transportation has agreed to an 80-year concession for the project. Project operations are targeted to take place on August 18, 2023.

The process of selecting the proposal and selecting China as the winner of the Jakarta-Bandung fast train project went through several stages as follows:

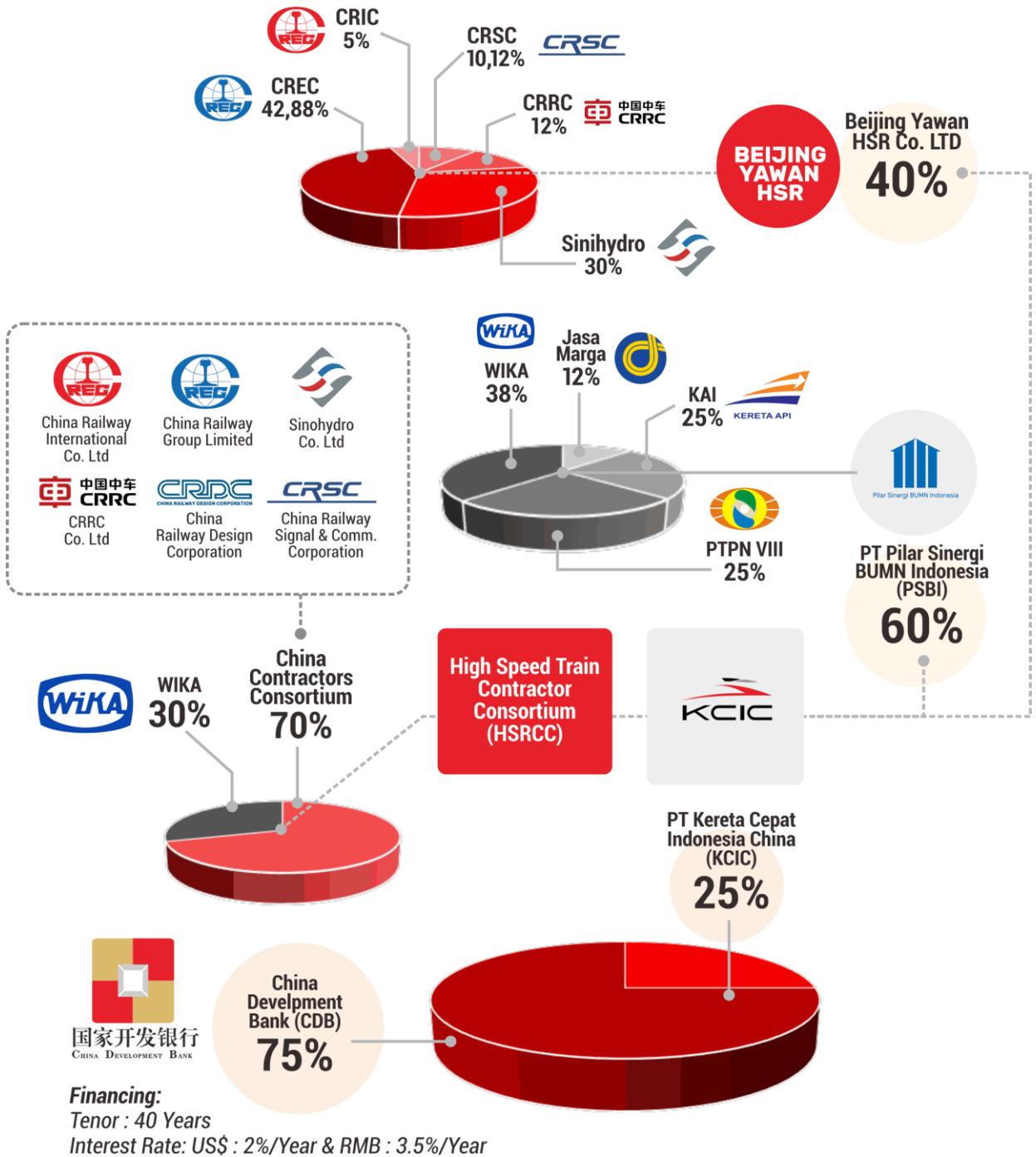
- a. **Solicitation of Proposals:** The Indonesian government opened a tender for the Jakarta-Bandung high-speed rail project in 2014. Several companies and consortiums from various countries, including China, submitted their proposals to the Indonesian government;
- b. **Evaluation and Selection:** The Government of Indonesia evaluates to select the best proposal that meets the project criteria. This includes an analysis of the technical and economic feasibility of each proposal;

- c. **Contract Negotiations:** After the best proposal is selected, the Indonesian government conducts negotiations with the party responsible for the proposal, in this case, the China Indonesia Fast Train Consortium (KCIC) led by the China Railway Corporation (CRC) railway company. Negotiations include details of technical, financial, and various other aspects related to the project;
- d. **Contract Signing:** After negotiations, the Indonesian government and KCIC signed a formal contract for the Jakarta-Bandung high-speed rail project in March 2016. This contract regulates technical, financial, and other aspects related to project implementation;
- e. **Project Implementation:** KCIC started implementing the Jakarta-Bandung fast train project after signing the contract. This project includes design, construction, land acquisition, and others according to the plans agreed in the contract;
- f. **Monitoring and Evaluation:** The Indonesian government regularly monitors and evaluates project implementation to ensure project progress is as expected.

The Fast Train project began to be realized in 2015 with a B2B funding scheme, where the work was carried out by PT Kereta Api Indonesia China (KCIC). This makes PT KCIC obligated to bear all costs incurred in the project without any support from the government. This is in accordance with the provisions of Article 4 of Presidential Decree 107 of 2015, which stipulates that *"The assignment as referred to in Article 1 does not use funds from the State Revenue and Expenditure Budget and does not receive a guarantee from the Government,"*

The mega project was then built without using government or state budget funds. The investment source for this project has a composition of 75% of loan funds to the China Development Bank and 25% of joint venture funds from consortium companies, with a composition of 60% from Indonesia and 40% from China.

Figure 4. KCJB Project Financing Composition



Source: Processed from Indra Putra Salim, et al, 2023

However, in October 2021, the B2B financing scheme finally changed, and the government participated in financing the KCJB project due to several problems and cost overruns. The basis for this change is in Presidential Regulation Number 93 of 2021, amending Presidential Decree 107 of 2015 concerning accelerating the Implementation of Jakarta-Bandung Fast Train Infrastructure and Facilities.

Swelling occurs due to the emergence of various needs that were not predicted at the beginning of the project. Some of the problems that arise include increased land acquisition costs and price changes during project construction, transfer of public utilities, and others. The Ministry of Transportation and the Ministry of BUMN identified problems that arose during project construction, namely:

1. land acquisition which required 30% more land area,
2. changes to the land acquisition financing plan due to the protracted process of land acquisition,
3. there was a public rejection or lawsuit over the value of compensation during the land acquisition stage in several places,
4. construction techniques that depend on foreign parties and do not apply international standards,
5. poor planning of Environmental Impact Analysis (AMDAL),
6. project risk management is not fulfilled as well as the Covid-19 Pandemic.

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5. poor planning of Environmental Impact Analysis (AMDAL),
6. project risk management is not fulfilled as well as the Covid-19 Pandemic.

Based on various identification of problems that have resulted in cost overruns for the Jakarta-Bandung High-Speed Rail project, there are indications that Chinese proposals' selection and evaluation phases have not been carried out comprehensively, especially economic analysis and analysis of sectoral issues in project realization. It was even stated that the feasibility study of this project had not yet included the land acquisition schedule and others, so its completion was challenging to predict.

The emergence of unexpected costs due to problems that could have been anticipated in planning strengthens the notion of flawed or immature project planning. The government's settlement by issuing regulatory changes and injecting funds implies that the debt that arises will be the government's responsibility to pay it.

In addition to public scrutiny regarding profit and loss, financing that previously did not use the state budget is being funded by the state budget, land acquisition issues, and delayed operational times; recently, the public has also criticized security issues. For example, in 2019, there was a Pertamina gas pipe fire. Then, in 2020, this project has also been accused of causing flooding on several Jakarta-Cikampek toll roads. Then another incident occurred where 111 tons of project iron were stolen.

At the end of 2021, the construction pillar of the high-speed rail project collapsed onto an excavator. The video of dismantling the piles or piers in the Jakarta-Bandung high-speed train construction project has gone viral on social media. Because it was done without SOP, the dismantled pole hit the excavator. At the end of 2022, another train accident occurred in Padalarang, which resulted in the death of two Chinese foreigners, and four workers were injured.

If drawn in the context of PSN more broadly, not a few large projects have suddenly been created even though they had never appeared in the National Medium-Term Development Plan (RPJMN) before. Of course, plans can run dynamically, but public criticism of this issue has never been adequately answered; it even responded by issuing formal regulations and decisions, which later also became problematic. The development of IKN or KCJB, which has been criticized a lot, has only been responded to by revising the RPJMN and issuing a legal basis with minimal public participation.

Other evidence can be seen in the construction of Soedirman Airport in Purbalingga and Ngloram Airport in Blora. The construction of the two airports is not listed in the RPJMN. Even Soedirman Airport does not meet the requirements to be built, considering its location is too close—only 65 kilometers—from Tunggul Wulung Airport, Cilacap. Nevertheless, the airport is still being built. Maybe it was because it gave residents their pride, but it became apparent when the airport went into a state of suspended animation after several months of operation due to minimal passengers.



**2015**

Issuance of Presidential Regulation No. 107 of 2015 concerning the Acceleration of Implementation of High Speed Train Infrastructure & Facilities between Jakarta and Bandung



**2016**

The Indonesian Air Force refuses to use the Halim Perdanakusumah Airstrip for High Speed train tracks & stations (Letter No. B/65-09/32/16/Disfaskonau) dated 20 January 2016)



**2017**

Agreed on the Facility Agreement for the Financing of Infrastructure & Facilities for the Jakarta-Bandung High Speed Train in Beijing between PT KCIC & China Development Bank



**2018**

Signing of a cooperation contract with Cars Dardela Joint Operation (CDJO) as construction supervisor for the Jakarta-Bandung High Speed Train Project



**Juli 2018**

The Indonesian Air Force finally agreed to use Halim Perdanakusuma's land for the Jakarta-Bandung High Speed Train station & route



**Mei 2018**

China Development Bank disbursed US\$ 170 Million



**Juli 2018**

The China Development Bank again disbursed US\$ 1.1 Billion in funds

*Made suddenly even though it had never appeared in the National Medium Term Development Plan (RPJMN) before..*

**MARVELOUS**



End of 2019 Project Progress around **38%**



Constrained:  
- land acquisition,  
- location determination

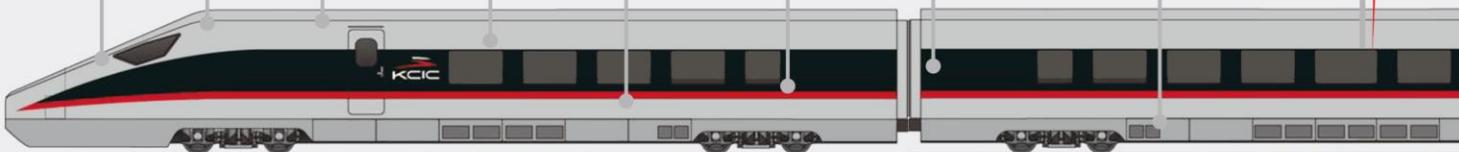
**2019**

**The Kemenkomarves Task Force Team**

began to be intensively involved in the Jakarta-Bandung High Speed Train Project Development Project and the process of land acquisition along the Project route began to run massively.



# CHRONOLOGY OF THE JAKARTA BANDUNG HIGH SPEED TRAIN DEVELOPMENT PROJECT



# COST OVERRUN



**2020**  
the construction of the Jakarta-Bandung High Speed Train Project has reached

**65,70%**

the transition is entering the Operations & Maintenance (O&M) Readiness preparation stage.

**6 October 2021**  
Issuance of Presidential Regulation 93/2021 concerning Amendments to Presidential Regulation No. 107 of 2015 Concerning the Acceleration of Implementation of High Speed Train Infrastructure & Facilities Between Jakarta & Bandung.

*with the reason because there are a number of problems & swelling financing (cost overrun).*

*Swelling occurred due to unforeseen needs at the start of the project, namely: increases in land acquisition costs and changes in prices during project construction, transfer of public utilities and others.*



**2020**  
During the Covid-19 pandemic, the government stopped all construction projects and focused on handling the pandemic.

**Oktober 2021**  
The DPR approved the State Capital Deposit (base equity) for a consortium of Indonesian BUMNs who running the high-speed rail project in the amount of **IDR 4,1 Trillion**



**26 Maret 2021**  
A Team for the Acceleration of the Indonesia China High Speed Train Project (KCIC) Jakarta Bandung (Project Management Office (PMO) Team) was formed, with the issuance of MenBUMN Decree No. SK-100 /MBU /03 /2021.

**Oktober 2021**  
The first KCIC 400AF Train Set production was completed by the CRRC Qingdao Sifang factory, Shandong, China.



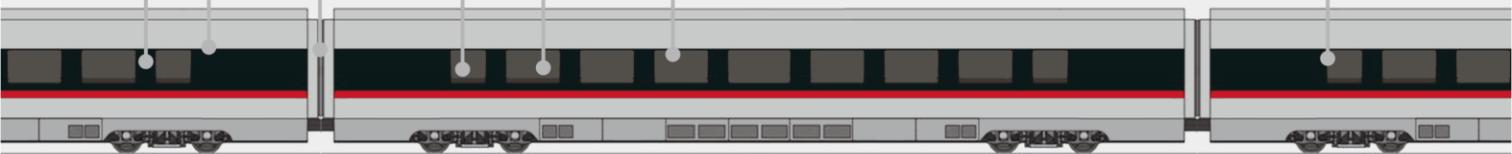
**18 Mei 2021**  
President Jokowi's first visit to the High Speed Train Project, visiting the location of Casting Yard 1 & Tunnel 1 of the High Speed Train Project.



**Mid-2021s**  
The construction of the Jakarta-Bandung High Speed Train Project has just begun.



**30 Juli 2021**  
Topping Off Halim Station as a High Speed Train station





**17 Januari 2022**

President Jokowi visited for the second time at the Tunnel 2 location with an investment progress of **79.90%**



**20 April 2022**

Rail installation from the Tegalluar area (Depo Location) to Jakarta.



**17 Juni 2022**

Breakthrough Tunnel 2 (Last Tunnel of 13 Tunnels) in the Jakarta-Bandung High Speed Train Project.



**31 Desember 2022**

The government has again flushed down the high-speed train project with a state budget worth **IDR. 3,2 Trillion** for PT KAI as State Equity Participation in PT KAI shares.

} Stipulated based on PP No. 62 of 2022

ITS SO HEAVY



**April 2023**

The Ministry of Transportation approves the **80 year Concession** of the High Speed Train Project. And project operations are targeted to take place on August 18, 2023.

**BEGINNING**  
B2B scheme  
(not funded by APBN)  
**FINALLY**  
the G2B scheme  
(funded by APBN)

**August 2023**

Total APBN funds to the KCIC project, amounting to **IDR 7,3 Billion**. Meanwhile, CBD loans are estimated to reach **US\$ 4,55 Billion** or equivalent **IDR 64,9 Trillion**.



**DEBT THAT MUST BE PAID BY THE PEOPLE OF INDONESIA**



From the explanation and elaboration of the search findings, the following are several crucial points for the analysis of this project:

- **Arbitrary regulatory framework and minimal oversight add to the complexity of project execution**

The basis for the Presidential Regulation (Perpres), which forms the basis and reference for the KCIC project, can be changed, adapted, and determined very quickly without going through the stages of consultation or adequate legislative oversight. For example, Presidential Regulation Number 107 of 2015 has clearly stated that the KCIC project does not use APBN funds and is not guaranteed by the Government in its implementation (article 4, paragraph 2). However, the revision of Presidential Regulation Number 93 of 2021 changes this, whereby the APBN can be used, and the Government guarantees the project (Article 4, paragraphs 2 and 3).

- **Improper planning causes potential state losses**

From the start, the Jakarta-Bandung high-speed rail project has been controversial. At first, it seemed the Indonesian government would cooperate with Japan, a country with rich experience building high-speed trains. However, in the end, China won the tender because it offered a cheaper project value. In comparison, Japan submitted a proposal of USD 6.2 billion with a soft interest of 0.1% per year, while China submitted an offer of USD 5.57 billion and a loan interest of 2%<sup>81</sup>.

However, after China was named the winner, there was an overrun in costs, almost touching the figure offered by Japan, which was USD 7.55 billion based on the RI BPKP audit. In addition, the interest that should have been 2% increased to 3.4%. This figure has also decreased from the previous 4%. China as a lender, has also started asking for other things, such as guarantees from the state budget and increasing the concession period from 40 years to 80 years<sup>82</sup>. Meanwhile, the Supreme Audit Agency (BPK) has also found two problems in financing the Jakarta-Bandung fast train (KCJB) project: potential losses and violations of regulations<sup>83</sup>. Both are related to the cost overruns involved in the 350-kilometer-per-hour train project.

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<sup>81</sup> Regarding the loan interest of 2% can be referred to <https://china.aiddata.org/projects/61320/>

<sup>82</sup> Neraca. (2023). *Negosiasi Proyek Kereta Cepat, Pengamat: Hindari APBN Sebagai Jaminan Utang* <https://www.neraca.co.id/article/178712/negosiasi-proyek-kereta-cepat-kcjb-pengamat-hindari-apbn-sebagai-jaminan-utang>, accessed on July 16 2023.

<sup>83</sup> Koran Tempo. (2023). *Temuan BPK dalam Proyek Kereta Cepat*. <https://koran.tempo.co/read/berita-utama/482911/temuan-bpk-dalam-proyek-kereta-cepat>, accessed on July 17 2023.

Through an examination of the internal control system and compliance with the provisions of the central government legislation in 2022, the state auditor found that funding for the high-speed train overrun could potentially burden the finances of PT Kereta Api Indonesia (Persero) or PT KAI. This BUMN train operator is the leader of a consortium of state-owned enterprises in the high-speed train project.

For the record, Indonesia and China agreed on a KCJB cost overrun value of around 1.2 billion USD. Of this figure, Indonesia had to bear cost overruns worth USD 723.58 million or around IDR 10.8 trillion. Most of it, or around 542.68 million USD, will be financed by debt from the China Development Bank.

As for the remainder, USD 180.89 million came from equity (capital) that had to be paid up by the BUMN members of the consortium. Funding for the equity portion was met through state equity participation in PT KAI for IDR 3.2 trillion in 2022. Meanwhile, funding from the loan portion is met through loans that the consortium leadership will make.

As the leader of the Indonesian consortium, PT KAI has the most significant stake in PT KCIC. Presidential Regulation Number 93 of 2021 states that the loan to increase capital to fulfill obligations resulting from an increase or change in the cost of the KCJB project must be borne by PT KAI. However, because the cost overrun settlement scheme is not yet transparent, the BPK assesses that PT KAI will potentially bear the loan principal and interest payments if KCIC cannot pay them.



*Photo : redigest.web.id*

- **Minimal political oversight**

When exploring for information in online media, there are almost no critical notes from the DPR RI regarding various controversies over the KCIC project, including the discourse to form a Special Committee (*Pansus*) or Working Committee (*Panja*) to investigate various changes in commitments and agreements that tend to harm Indonesia's finances. At that time, there were only decisive votes from the Prosperous Justice Party (PKS) as the opposition party<sup>84</sup>, but this was not very significant because most parliamentary votes were representatives of political parties that were part of Jokowi's Government coalition. As for minor matters that are, in fact the focus of the DPR, such as the theft of railroad bolts and cable<sup>85</sup> and the use of foreign workers from China.<sup>86</sup>

- **Financial lender governance and anti-corruption issues**

As is known, the KCIC project is funded by the China Development Bank (CDB). The problem is that financial institutions in China are considered vulnerable to corruption. One of the proofs, the former Vice President Director of CDB named Zhou Qingyu was arrested by the Chinese Government on charges of receiving bribes.<sup>87</sup> Other problems related to the issue of financial sector governance in China are inadequate regulations to regulate the Chinese stock market, the absence of a revolving door rule for former high-ranking Chinese officials and entrepreneurs, including the corruption found in policies to extend the duration of debt in the CBD and Exim China Bank.<sup>88</sup>

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<sup>84</sup> Partai Keadilan Sejahtera. (2022). *Kinerja Jokowi Ma'ruf di Bidang Ekonomi, Politik dan Hukum Jauh dari Harapan* <https://fraksi.pks.id/2022/12/31/fraksi-pks-dpr-ri-kinerja-pemerintahan-jokowi-maruf-di-bidang-ekonomi-politik-dan-hukum-jauh-dari-harapan/>, accessed on June 4 2023.

<sup>85</sup> Viva. (2023). *DPR Soroti Pencurian Baut KCJB*. <https://www.viva.co.id/berita/politik/1607537-dpr-soroti-pencurian-baut-dan-kabel-proyek-kereta-cepat-jakarta-bandung>, accessed on June 14 2023.

<sup>86</sup> Kontributor Today. (2023). *TKA Cina Jadi Tukang Las Kereta Cepat, Komisi IX DPR Bentuk Panja*. <https://kontributortoday.com/tka-china-jadi-tukang-las-kereta-cepat-komisi-ix-dpr-bentuk-panja/>, accessed on June 4 2023.

<sup>87</sup> Nikkei Asia. (2023). *Ex-China Development Bank executive investigated for graft*, <https://asia.nikkei.com/Spotlight/Caixin/Ex-China-Development-Bank-executive-investigated-for-graft>, accessed on June 15 2023.

<sup>88</sup> Asia Sentinel. (2023). *Graft Probe China Financial Institutions*. <https://www.asiasentinel.com/p/graft-probe-china-financial-institutions>, accessed on June 15 2023.

Infrastructure projects and natural resource processing have become the main targets of Chinese investment in recent years. Chinese investment is considered to have one main goal: to absorb the excess production of domestic capital goods, such as iron, steel, and cement, one of which was encouraged through the Belt and Road Initiatives (BRI) in 2013. Therefore, China is keen to invest in the infrastructure sector so that apart from using the goods, it also helps China cut the cost of transporting goods imported from the country.

Even if there is investment in the downstream sector, for example, in nickel commodities, it is estimated that this will only benefit China. By banning the export of raw nickel, the price of this commodity is cheap in Indonesia. This nickel is then processed by a smelter company from China in Indonesia, and the results are exported back to China. As a result, Indonesia does not enjoy the results downstream because miners sell nickel to smelter companies at domestic prices below global prices.

The characteristics of Chinese investment tend to be one-sided. The cooperation schemes offered often use partial financing or debt from China. The debt is sometimes subject to commercial interest and government guarantees. The investment and debt funds are then used to import technology, raw materials, and labor from China. These characteristics are precisely found in the Jakarta-Bandung Fast Train project.

China's investment model also often uses natural resource control motives. Investments with equity participation allow China to control upstream production, guarantee priority supply to its home market, operate vital transportation networks, and sometimes even monopolize global supply.

In the geopolitical context, Chinese investment cannot be separated from the interest in securing the supply of natural resources in large quantities, from oil and gas, coal, nickel, and crude palm oil (CPO). The most considerable investment value from China in Indonesia in 2022 will be the base metal and metal goods industry sector (US\$ 2.6 billion), transportation, warehousing, and telecommunications (US\$ 2.19 billion). China is Indonesia's number one trading partner, with a total export value of US\$ 50.8 billion in 2022.

On the other hand, China's infrastructure investments, which pay high interest and require collateral, often end in default and asset expropriation. This long-term risk is often not realized from the start, as happened at the Hambantota Port in Sri Lanka or in the nickel downstream program where smelters from China dominated Indonesia.

In addition, many Chinese companies, particularly in nickel processing, have not paid close attention to occupational health and safety. As a result, there are many incidents, accidents, and conflicts between workers. One was when the conflict occurred at PT Gunbuster Nickel Industry (GNI) in Morowali. In December 2022, a smelter furnace explosion killed two PT GNI workers. After that, the workers in the industrial environment held a demonstration that filed 12 demands regarding employment.

In addition to labor issues, investment in the nickel industry has an environmental impact because it triggers massive mining land clearing and causes deforestation. This triggers sea water pollution due to coal deposits, harming public health.

- **The role of 'stamper' for National Strategic Projects by KPPIP**

The role of the Committee for the Acceleration of Provision of Priority Infrastructure (KPPIP) tends to be very political in screening PSN proposals. For example, political sentiments only initiate many projects to boost the image ahead of the regional head or presidential elections.



**Graph 6. Trends in National Strategic Projects (2016-2023)<sup>89</sup>**



KPPIP stated that it would continue to work on all national strategic projects (PSN) until the 2024 deadline. KPPIP included ten new projects in the PSN list worth IDR 265 trillion. The PSN list contains 210 single projects and 12 integrated programs valued at IDR 5,746.4 trillion. This institution, which was formed in 2014, said that some of the projects had been labeled as “maximum completion in 2024” so they only need to be escorted until they enter the operating period. The second category is PSN which has started construction but is not expected to be completed by the end of 2024, such as the construction of the Jakarta Mass Rapid Transit (MRT) train Phase 2.

The third category is the PSN group which has not even reached the physical development stage, and, indeed, its completion will not be overtaken in 2024. KPPIP then seeks to reach the initial development stage or at least reach a transaction agreement (financial close) for this category of PSN.

<sup>89</sup> Koran Tempo. (2023). *Apa Dampak Proyek Strategis Nasional*. <https://koran.tempo.co/read/ekonomi-dan-bisnis/483206/apa-dampak-proyek-strategis-nasional>, accessed on August 5 2023.

KPPIP itself noted that 158 priority projects had been completed in the last eight years with an investment value of Rp 1,102.6 trillion. Based on the Regulation of the Coordinating Minister (Permenko) for Economic Affairs Number 21 of 2022, the total PSN that must be completed by 2024 is 210 projects with a total value of IDR 5,746.4 trillion. However, the economic impact of this strategic project is still less significant. Since 2016 or the first PSN was launched, Indonesia's economic growth has tended to be in the range of 5 percent—2019 at 5.02 percent and 5.31 percent in 2022. This means that there is no significant leverage effect from infrastructure on the economy.

Economic growth should be a benchmark for the impact of infrastructure projects in the construction phase (first-round effect) and post-construction (second-round effect). At the construction stage, infrastructure should have an impact through a significant investment value, which can then be used to buy raw materials to wage labor. The magnitude of the project's local content also determines this minimal multiplier effect.

Next, the impact of post-construction PSN can be seen from the impact of infrastructure on increasing economic productivity. For example, the construction of reservoirs is not closely correlated with increased food production. Rice production tends to decrease, from 33.9 million tons in 2018 to only 31.5 million tons in 2022. This means that there are minimal indications of a second-round effect from PSN.

From a macroeconomic perspective, strategic projects that should be able to increase inter-regional connections and reduce logistics costs have not yielded the expected results. Indonesia still has the most expensive logistics costs in Southeast Asia. This is the impact of planning that is less integrated and seems rushed. As a result, several PSNs are not integrated, for example, toll road projects that are not integrated with ports and industrial areas. This means that if one considers that increasing community productivity, price stability, and employment are used as indicators, PSN has not functioned as expected.

The PSN project is seen as a countercyclical policy, which can only act as a damper for weakening economic growth. The reason is that debt is one of PSN's funding sources. PSN also focuses more on improving the economy on the distribution and consumption side. However, the impact is that national productivity tends to stagnate, and growth is ultimately determined by the level of household consumption rather than by investment and exports.

## 2. Hambalang Athlete House Sports Center Development Project

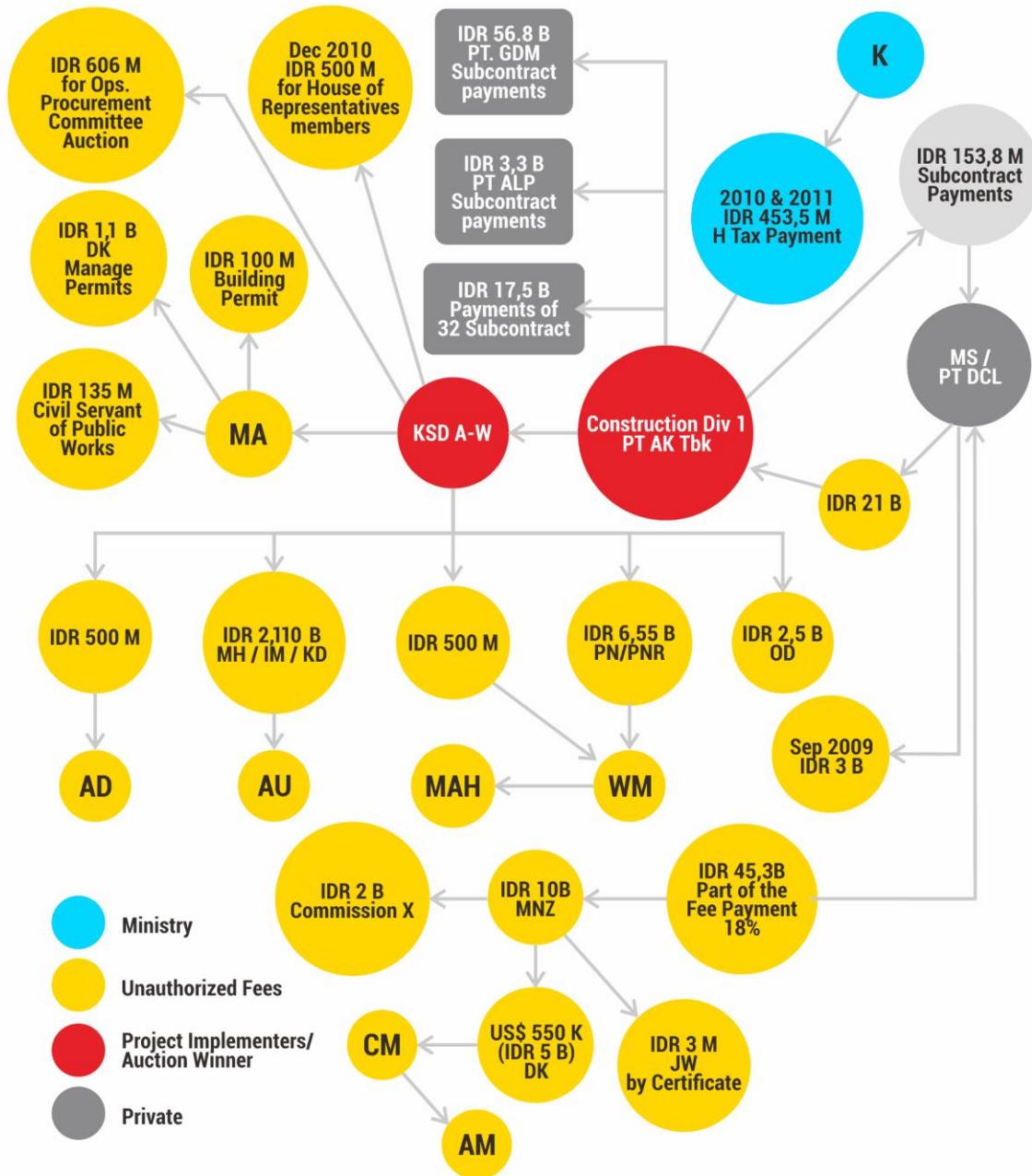
| INDICATION OF CORRUPTION RISK IN PROJECT SELECTION - INITIAL ASSESSMENT |   |
|---|---|
| <b>Project name</b>   | Hambalang Athlete House Sports Center Development Project   |
| <b>Project brief description</b>  | <p>This project belongs to the Ministry of Youth and Sports, is worth IDR 2.5 trillion, and is built on around 30 hectares in the Hambalang area, Sentul, Bogor, West Java. The construction of this project began when the Directorate General of Sports, Ministry of National Education, wanted to build a National Level Student Sports Training Education Center.</p> <p>Then, 2004 a verification team was formed to find representative land to push through the plan. The verification team surveyed five appropriate locations to build the sports center: Karawang, Hambalang, Cariu, Cibinong, and Cikarang. The team finally gave the highest rating to the location of Hambalang village, Citeureup, Bogor.</p> <p>However, it turns out that the Hambalang location is in the medium-high vulnerability zone according to the disaster-prone map issued by the Center for Volcanology and Geological Hazard Mitigation (PVMBG) of the Ministry of Energy and Mineral Resources. PVMBG advises not to construct buildings in that location because it has a high risk of natural disasters in the form of ground motions.</p> <p>Initially, this project was only planned to build a two-story sports school, so the Ministry of Youth and Sports only proposed a budget of IDR 125 billion, which increased significantly to IDR 2.5 trillion. The construction of this project then stalled after the parties involved were proven to have committed criminal acts of corruption.</p> <p>Based on the court decision, several names were involved in the Hambalang corruption scandal, starting from the former Minister of Youth and Sports Andi Mallarangeng, former Operational Director of PT Adhi Karya (Persero) Teuku Bagus Mokhammad Noor, to former Chairman of the Democratic Party Anas Urbaningrum. Based on calculations made by the Supreme Audit Agency, the total state loss from the Hambalang project reached IDR 706 billion, and payments for the Hambalang project were also found to have been inflated to IDR 514 billion.</p> |
| <b>Project owner / Institution</b>                                      | Ministry of Youth and Sports  |
| <b>Project vulnerability</b>  | Substantial   |
| <b>Context assessment</b>   | 7.9 i.e. High - An area of significant vulnerability to undue influence or corruption   |

|  |   |
|--|---|
| <b>Key governance areas of concern</b>   | <ul style="list-style-type: none"> <li>• Location</li> <li>• Possible benefits</li> <li>• Possible beneficiaries</li> <li>• Possible adverse effects</li> <li>• Type of intervention</li> <li>• Size and scope</li> </ul>   |
| <b>Other area to be considered</b>       | <ul style="list-style-type: none"> <li>• Planned mitigation</li> <li>• Alternatives that are more urgent or of better value</li> <li>• Disaster risk</li> </ul>   |
| <b>Governance risk classification</b>    | 5 (very high; detailed and systematic)  |
| <b>Context assessment</b>                | 7.9 i.e. High - An area of significant vulnerability to undue influence or corruption   |
| <b>Key governance areas of concern</b>   | <p><i>State Aspects:</i></p> <ul style="list-style-type: none"> <li>• Legal and judicial system</li> <li>• Finance and public procurement</li> <li>• Cultural hierarchy</li> <li>• Openness to the media</li> <li>• Civil society activities</li> <li>• Perceptions of corruption</li> </ul> <p><i>Institutional Aspect:</i></p> <ul style="list-style-type: none"> <li>• External influences on agency operations</li> <li>• Professional interaction within the institution</li> <li>• Professional and technical capacity</li> <li>• Institution-industry relations</li> </ul> |
| <b>Other area to be considered</b>       | <p><i>State Aspects:</i></p> <ul style="list-style-type: none"> <li>• Election process</li> <li>• Access to information</li> </ul> <p><i>Institutional Aspect:</i></p> <ul style="list-style-type: none"> <li>• Executive management</li> <li>• Information disclosure</li> <li>• Budget and program transparency</li> <li>• Grievance mechanism</li> <li>• Institutional reputation and leadership</li> <li>• Personal interests</li> <li>• Community engagement</li> </ul>  |
| <b>Type of project selection process</b> | A – Detailed and Systematic   |

|   |   |
|---|---|
| <b>Risk of Mismanagement and Undue Influence</b>                | 4.4 (Moderate)  |
| <b>Indication of Corruption Risk in Project Selection Cases</b> | Very High   |
| <b>Narrative</b>  | <p>This project was chosen because it has been proven that there has been a criminal act of corruption in implementing its development. The ICRAT methodology is expected to be able to trace the logic of potential corruption risks and their vulnerabilities generically so that they will be more methodologically valid.</p> <p>In this Hambalang project, corruption has been carried out since the planning stage. As is well known, there has been a four-fold increase in the budget up to the final budget of Rp. 2.5 trillion without clear information, whether it has gone through the stages of planning changes according to SOPs, based on needs which are calculated fairly and transparently, and involve a plan calculation process detailed budget (RAB), following predetermined project priorities.</p> <p>In addition, undue influence from Politically-exposed Persons is powerful in this project. Proposing a project budget cannot be separated from the political role of the DPR; several politicians from the Democrat Party were ultimately dragged into the legal process because they received bribes by being involved in approving and securing the project.</p> <p>Reflecting on the actor's analysis, corruption in the Hambalang project is political corruption, not merely corruption in the development of the Hambalang infrastructure project. Political corruption becomes easier because project proponents from the executive side, namely the Ministry of Youth and Sports, and the legislature that determines and approves the funded project also come from the same party.</p> |

Corruption in constructing the Sports Training and Education Center in Hambalang is one example of organized corruption practices. In almost every stage of the process of the project worth around IDR 1.175 trillion, from the budgeting stage to the implementation of development, corruption has been practiced. Moreover, because this project is stalled, aka it cannot be used at all, the value of the loss is more significant, or the equivalent of the total project, which reaches IDR 2.5 trillion.

Figure 5. Hambalang Case Fund Flow.<sup>90</sup>



<sup>90</sup> Mahkamah Agung. *Ibid.*

In the budgeting process, some money was disbursed to the DPR and the Ministry of Youth and Sports to ensure that the Hambalang project fell into the hands of one of the leading BUMNs in the infrastructure sector. Then in the tender process, it was found that the partners also spent a certain amount of money on hotel rental costs in the context of project planning, tender preparation consultancy, bidding process, copies of tender documents, and operational costs for the Hambalang project auction, as well as giving pocket money to the procurement committee.<sup>91</sup>

In its audit report<sup>92</sup>, the Supreme Audit Agency (BPK) said that deviations from the Hambalang project occurred starting from the planning stage, multi-year contract budgets that did not meet the requirements, implementation of Hambalang project work, and irregularities in payment.

This deviation was concluded based on the formal aspect, namely the absence of an AMDAL study, as well as the technical aspect, namely the project planners and implementers ignored the opinion of the Center for Volcanology and Geological Hazard Mitigation of the Ministry of Energy and Mineral Resources which stated that the structure of the Hambalang land was unstable so that it was vulnerable if built. As a result, there was a state loss of IDR 464.514 billion.



Foto: detik.com

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<sup>91</sup> Mahkamah Agung. Putusan No.: 30/PID.SUS/TPK/2014/PN.JKT.PST dated July 1, 2014, page 503.

<sup>92</sup> Kompas. 2014. *Ini Penyimpangan Proyek Hambalang Versi BPK*.  
<https://nasional.kompas.com/read/2014/06/03/1328015/Ini.Penyimpangan.Proyek.Hambalang.Versi.BPK>  
accessed on March 15 2023.

From the explanation and elaboration of the search findings, the following are several crucial points for the analysis of this project:

- **Problematic project from the planning stage**

As is well known, the Hambalang project was initially problematic. The contour of the land where the project is located is prone to landslides. Likewise, the project value that was initially proposed was only Rp. 125 billion when the Minister of Youth and Sports (Menpora) was Adhyaksa Dault. However, when the Menpora turned to Andi Mallarangeng, the value of the Hambalang project skyrocketed to Rp 2.5 trillion.<sup>93</sup>

Regarding the increase that occurred four times to reach the final budget of IDR 2.5 trillion, there is no clear information on whether it has gone through the stages of planning changes according to the SOP, based on needs that are calculated fairly and transparently, and involve the process of calculating the budget plan (RAB) in detail, following predetermined project priorities.

- **Actors who determine and decide policies are full of conflicts of interest**

Because planning aspects of the Hambalang project, including proposing the project budget, cannot be separated from the political role of the DPR, several politicians from the Democrat Party were ultimately dragged into the legal process for accepting bribes by being involved in approving and securing the project. They include Andi Mallarangeng as Menpora, Anas Urbaningrum as Chair of the DPR, and Angelina Sondakh as a member of the DPR.

All of these politicians came from the Democratic party, where at the time the project was set, the President of Indonesia was Susilo Bambang Yudhoyono (SBY), also the General Chair of the Democratic Party. Reflecting on the actor's analysis, corruption in the Hambalang project is political corruption, not merely corruption in the Hambalang infrastructure project development. Political corruption becomes easier because project proponents from the executive side, namely the Ministry of Youth and Sports, and the legislature that determines and approves the funded project also come from the same party.

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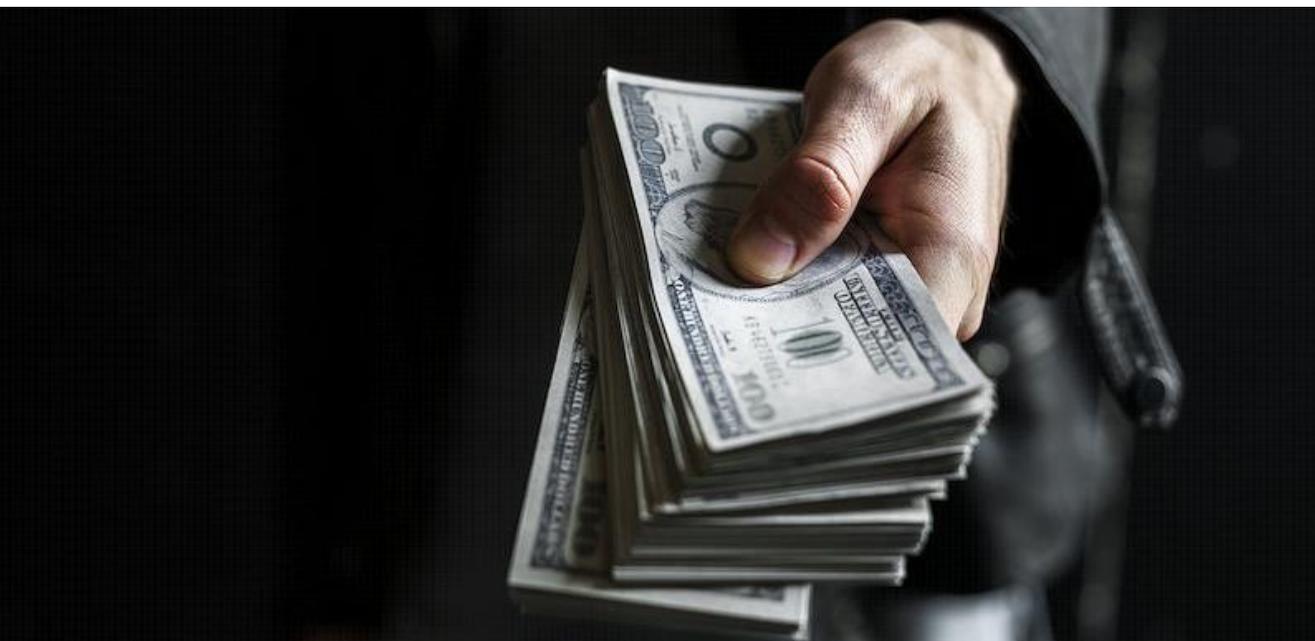
<sup>93</sup> Kompas. (2013). *Adhyaksa Dault Kaget Anggaran Hambalang Jadi Rp 2.5 T*. <https://nasional.kompas.com/read/2013/11/12/1809094/Adhyaksa.Dault.Kaget.Anggaran.Hambalang.Jadi.Rp.2.5.Triliun>, accessed on March 25 2023.

- **The tender regulatory ecosystem and SOEs are also in trouble**

Until now, government tenders are still regulated in a Presidential Regulation. There have been several discourses that the government's public procurement be regulated in law, but to date, this idea has not materialized. Public procurement regulations that exist today are still primarily concerned with economic issues, where the content of local goods, the involvement of local entrepreneurs, and special treatment for specific areas in procurement.

Meanwhile, LKPP as the representative of the President to regulate PBJ governance in such a way as to make it more transparent and accountable, also has a limited role. For example, when the bidding process takes place, and there are several findings of violations, LKPP recommendations may be ignored by project implementers. This can be seen, for example, in the case of the E-KTP project.

On the other hand, the BUMN sector is prone to corruption. In the Hambalang project, one of the contract winners was PT Adhi Karya, a state-owned construction company whose Operations Director was named a suspect by the KPK in the same project. According to Dahlan Iskan, when he was Minister of SOEs, contractor SOEs were said to be the most prone to corruption due to the unhealthy competition system to win tenders.



*Foto: rawpixel.com*

### 3. Balang Island Bridge Development Project in the Nusantara Capital City (IKN)

| INDICATION OF CORRUPTION RISK IN PROJECT SELECTION - INITIAL ASSESSMENT |  |
|---|--|
| <b>Project name</b>   | The Balang Island Bridge in the Nusantara Capital City (IKN)   |
| <b>Project brief description</b>  | <p>The Balang Island Bridge was built in collaboration between the Ministry of PUPR and the Provincial Government of East Kalimantan, the Penajam Regency Government, and the North Penajam Paser Regency Government. The construction contractor for this project is Hutama-Adhi-Build Cipta (through the KSO scheme), with the Supervision Consultant PT. Adiya Widyajasa KSO, PT. Wira Widyatama and PT. Hanata.</p> <p>This bridge was built to facilitate connectivity on the Southern Cross of Kalimantan as the main route for logistics transportation because the distance and travel time are shorter, as well as to facilitate connectivity between Samarinda, Balikpapan, and the new Nusantara Capital City (IKN) in North Penajam Paser Regency. The main bridge is 804 meters long, built on the northern part of Balang Island, and serves as an approach to Balikpapan.</p> <p>Meanwhile, at the southern end of the island, there is a second bridge that is 167 meters long and becomes the approach to Penajam City. Apart from the main bridge, there is also construction for a 167-meter approach bridge and a 1.8-kilometer access road.</p> <p>The construction of the Balang Island Bridge Project began in August 2015 and ended in 2021 (with two addendums) and cost IDR 1.43 trillion, which is financed by State Sharia Securities (SBSN). This bridge was inaugurated by the Minister of PUPR RI, Basuki Hadimuljono, and the Minister of Finance of the Republic of Indonesia, Sri Mulyani, on January 6, 2022. The construction of this bridge also supports infrastructure in Nusantara, Indonesia's New State Capital (IKN).</p> |
| <b>Project owner / Institution</b>                                      | Ministry of Public Works and Public Housing (PUPR)   |
| <b>Project vulnerability</b>  | Significant  |
| <b>The main vulnerability of the project</b>                            | <ul style="list-style-type: none"> <li>• Location</li> <li>• Possible benefits</li> <li>• Possible beneficiaries</li> <li>• Possible adverse effects</li> </ul>  |
| <b>Other vulnerabilities</b>  | <ul style="list-style-type: none"> <li>• Type of intervention</li> <li>• Size and scope</li> <li>• Planned mitigation</li> <li>• Alternatives that are more urgent or of better value</li> <li>• Disaster risk</li> </ul>  |

|   |   |
|---|---|
| <b>Governance risk classification</b>                           | 4 (high; detailed and systematic)   |
| <b>Context assessment</b>                                       | 7.9 i.e. High - An area of significant vulnerability to undue influence or corruption   |
| <b>Key governance areas of concern</b>                          | <p><i>State Aspects:</i></p> <ul style="list-style-type: none"> <li>• Legal and judicial system</li> <li>• Finance and public procurement</li> <li>• Cultural hierarchy</li> <li>• Openness to the media</li> <li>• Civil society activities</li> <li>• Perceptions of corruption</li> </ul> <p><i>Institutional Aspect:</i></p> <ul style="list-style-type: none"> <li>• External influences on agency operations</li> <li>• Information disclosure</li> <li>• Budget and program transparency</li> <li>• Grievance mechanism</li> <li>• Personal interests</li> <li>• Community engagement</li> </ul> |
| <b>Another area to consider</b>                                 | <p><i>State Aspects:</i></p> <ul style="list-style-type: none"> <li>• Election process</li> <li>• Access to information</li> </ul> <p><i>Institutional Aspects:</i></p> <ul style="list-style-type: none"> <li>• Executive management</li> <li>• Professional interaction within the institution</li> <li>• Professional and technical capacity</li> <li>• Institutional reputation and leadership</li> <li>• Institution-industry relations</li> </ul>   |
| <b>Type of project selection process</b>                        | A – Detailed and Systematic   |
| <b>Risk of Mismanagement and Undue Influence</b>                | 5.4 (High)  |
| <b>Indication of Corruption Risk in Project Selection Cases</b> | Very High   |

|                         |  |
|-------------------------|--|
| <p><b>Narrative</b></p> | <p>The construction of the Balang Island Bridge is an integral part of the ambitious new IKN (National Capital) project, where the project is expected to link the new capital city and provincial cities in East Kalimantan.</p> <p>This project was also chosen because cumulatively, this project has cost IDR 1.43 trillion, which has been financed by State Sharia Securities (SBSN). The contractor implementing this project uses the Joint Operation (KSO) system with a combination of three construction companies, namely PT. Hutama Karya-Adhi Karya-Build Cipta.</p> <p>This project was also chosen because, since the beginning, the planning of the Balang Island bridge has received quite a strong reaction from various circles of environmental activists. Since 2010, a consortium of several environmental organizations has refused to develop the project because it has the potential to degrade the environment and has even been proven to pollute the Puda, Tengah, Berenga, and Tempadung Rivers. This construction is also accused of disrupting ship transportation, where the height of the bridge is the main problem for ships sailing in the waters of Balikpapan Bay.</p> <p>Using the ICRAT methodology, it is clear that there is a high risk of corruption with this project. This factor is related to the conditions of the infrastructure market, where rules related to fair competition tend to be applied weakly, and at the planning stage, decisions taken by the government to finance infrastructure projects tend to be closed. Moreover, there were no development plan documents the public could access during the tracing process. In addition, no information was found regarding the budget preparation and approval process.</p> |
|-------------------------|--|



Foto: jabarnews.com

This project is an integral part of the ambitious Capital City of the Archipelago (IKN) project, where the Balang Island bridge is expected to become a land connector between the new capital and provincial cities in East Kalimantan. This project swallowed a budget of IDR 1.43 trillion in total. Although it is not known whether the project value is for one complete project or is it the total of the various projects that are integrated into the construction of the Balang Island bridge.

Minister of Public Works and Housing Basuki Hadimuljono said that the Balang Island Bridge would improve connectivity on the Kalimantan Southern Cross as the main route for logistics transportation because the distance and travel time would be shorter. Apart from being a link to the South Kalimantan axis road network, this bridge also supports plans to develop a container port and the Kariangau industrial area.

The Balang Island bridge leading to the new capital city was financed by State Sharia Securities (SBSN) or Sukuk. The Balang Island Bridge was financed by State Sharia Securities (SBSN) worth IDR 1.4 trillion. Built in 2015, the Balang Island bridge has opened new access for trans-Kalimantan, on the south and east coast stretching from Banjarmasin, Banjar Baru, Pelahhari, Batulicin, Setangga, Banua Lawas, Tanah Grogot (Paser Regency), Penajam (Penajam Paser Utara), to Balikpapan. Onwards to Samarinda (toll roads and normal roads), to Bontang, to Ambalat near the border with Malaysia.

The Balang Island Bridge is not the only infrastructure built with SBSN financing<sup>94</sup> in East Kalimantan. There is also the construction of higher education infrastructure at the Kalimantan Institute of Technology, which allocated IDR 86.6 billion in 2019 for learning buildings and IDR 99.9 billion in 2020 for integrated laboratories. All of them have been tagged as sukuk assets.

The implementing contractor for this project uses the Joint Operation (KSO) system with a combination of three construction companies, namely PT Utama Karya-Adhi Karya-Bangun Cipta. This project is part of the IKN project. Funding for the preparation, construction, and relocation of the State Capital (IKN) and the administration of regional administration specifically for the Nusantara IKN can be sourced from the State Revenue and Expenditure Budget and other legal sources, following statutory provisions.

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<sup>94</sup> Project financing through SBSN is a policy to use funds sourced from financial markets through sharia-based state securities instruments. This policy has been implemented since 2008 on the legal basis of Law Number 19 of 2008. In its development, the financing of the SBSN project continues to show encouraging trends. At present, SBSN has been transformed into a strategic, innovative fiscal instrument and at the same time encourages the development of the domestic Islamic financial market. Total SBSN project financing until 2022 reaches IDR 175 trillion with a total of more than 4,247 projects spread across all provinces.

As for funding schemes sourced from the APBN and other legal sources, one of them comes from the utilization of State Property (BMN). This is stated in Government Regulation Number 17 of 2022 concerning Funding and Budget Management for the Preparation, Development, and Relocation of the National Capital and the Administration of Special Regional Governments for the Capital of the Archipelago.

At the beginning of planning for the construction of the Balang Island bridge, there was quite a strong reaction from various circles of environmental activists. For example, around mid-2009-early 2010, in Balikpapan, there was a consortium named Consortium of NGOs and Environmental Care Agencies whose members include, among others, Environmental Regional Center (Pusreg LH, now P3EK), Balikpapan City Environment Agency (now Balikpapan City Environment Agency), Tropenbos Indonesia, Borneo Orangutan Survival Foundation (BOSF), The Nature Conservancy (TNC), Institute of Natural Resources Law (IHSA), the Sungai Wain Protected Forest Management Agency (BP-HLSW), STABIL, the Alas Lou Taka Foundation, and the Peduli Foundation.

The project for constructing the Balang Island Bridge and its connecting road has been blistered because it traverses through forest areas with high conservation value, including the Balikpapan Bay mangrove area and the Sungai Wain Protection Forest. At that time, it was feared that constructing a connecting road of approximately 24 km would open up many mangrove areas and have the potential for soil erosion, river pollution, and sedimentation in the surrounding rivers.

This is what is feared, and is now starting to feel the impact. This mega project has polluted the river as a result of pushing the connecting road to be made; also, of course, sedimentation occurs. Four rivers have been affected by this project, namely, Puda, Tengah, Berenga, and Tempadung rivers. The increase in sediment content makes the water yellow and water turbid.

Stanislav Lhota, a primatologist from the Department of Zoology, University of South Bohemia, Republic of Chechnya, who has been researching probosci's monkeys since 2006, said that the Balang Island Bridge project is a serious threat to the preservation of this endangered species in addition to several activities such as clearing ponds, coal exploitation, and oil palm plantations in the coastal area of Balikpapan and PPU.

Regarding the construction of the IKN, the Supreme Audit Agency (BPK) found several weaknesses in preparations for moving the national capital to East Kalimantan. In the Audit Report on the Preparatory Activities for Relocating the State Capital for the 2022 Fiscal Year, published on January 10, 2023, the state auditor agency assessed that the completeness of planning and derivative regulations was inadequate.

Most of the findings of the State III Main Auditorate of Finance (AUK) are also related to the unpreparedness of the authorities and the transitional team dealing with the transfer of the state center. The BPK concluded that the regulations for the preparation, construction, or transfer of IKN were incomplete.

All plans to build a new state capital are now supported by Law Number 3 of 2022 concerning IKN. This regulation was followed by the preparation of five derivative regulations, one of which was a government regulation (PP) regarding the funding and administration of regional regulators. The rest are four presidential regulations: IKN Authority rules, master plans, spatial planning, and land management.

All of these regulations should regulate 64 aspects of relocating the national capital. However, the BPK report stated that only 37 aspects had been accommodated. Even though 12 aspects are considered urgent, the remaining 27 have not been regulated. Some of the crucial ones include the special authority of the IKN Authority and the aspect of transferring state institutions, state apparatus, and representatives of international institutions from Jakarta to Kalimantan.



*Photo: wahananews.co*

From the explanation and elaboration of the search findings, the following are a number of crucial points for the analysis of this project:

- **Monitoring of project planning documents is minimal**

As the analysis presented on the Balang Island Bridge project, one of the problems with infrastructure project planning is the risk of distortion in preparing project documents. Given their more complicated, complex, and technical nature, infrastructure projects are easier to manipulate in various ways. The most commonly encountered is the creation of work packages that are small and many than what should be a single work package.

It is just that for the Balang Island Bridge construction project, no documents can be used as a reference for analysis, whether there has been an enumeration of project packages or not. Referring to the infrastructure project corruption prevention system compiled by PUPR, the tender planning process is within the scope of the oversight system. In this case, the leadership aspect, namely the PUPR Minister, who did not receive sharp scrutiny because of indications of corruption, gave sufficient confidence that the planning process had gone through adequate stages of internal supervision.

- **The heavy burden of SOE assignment projects**

Referring to official information from the PUPR Ministry, the winner of the Balang Island Bridge construction contract is a Joint Operation (KSO) between PT Hutama Karya, PT Adhi Karya and PT Bangun Cipta (private). The first two are state-owned contractors whose activities in the construction business in Indonesia are inseparable from corruption problems. In several corruption cases, such as the construction of the IPDN building, several high-ranking officials from PT Hutama Karya have been named as suspects.<sup>95</sup>

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<sup>95</sup> RMOL. (2022). *Kasus Korupsi Proyek IPDN, KPK Periksa Dirut Hutama Karya*. <https://rm.id/baca-berita/nasional/114326/kasus-korupsi-proyek-ipdn-kpk-periksa-dirut-hutama-karya>, accessed on June 6 2023.

Even PT Utama Karya was asked to return state losses of more than IDR 40 billion.<sup>96</sup> Likewise PT Adhi Karya, whose name has been tarnished in several cases of corruption in construction projects, including the IPDN development project in North Sulawesi.<sup>97</sup> When referring to the actors who were ensnared by the KPK, the average position of BUMN officials who became suspects was directors. Meanwhile, PT Bangun Cipta has never been recorded as having had any legal problems, including corruption in the implementation of the projects they carried out.

One note that has appeared is when PT Bangun Cipta entered into a house construction collaboration with Perum Perumnas, where it was indicated that Perum Perumnas was selling land at a low price to PT Bangun Cipta to the detriment of the state.<sup>98</sup> With this note, the risk of corruption can still occur in the Balang Island Bridge construction project, where the prevention and monitoring system cannot detect it.

- **The risk pattern of the SBSN (State Sharia Securities) financing scheme**

Until now, there has been no specific study that highlights whether there is potential for and risks of corruption in infrastructure development projects funded by SBSN. However, because the SBSN regulations, including PMK No. 6 of 2019 concerning procedures for payment of activities funded by SBSN, still involve pure rupiah as an initial payment, this is something to watch out for.

Referring to the said PMK regulatory framework, the SOP, principles and governance of SBSN are available in a fairly complete manner. Thus, it can be said that the risk of corruption from the SBSN financing scheme has been anticipated within the PMK regulatory framework. However, further research is needed on the stages and planning processes for infrastructure projects funded from SBSN within the APBN or APBD framework.

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<sup>96</sup> CNN Indonesia. (2022). KPK Minta Utama Karya Kembalikan Kerugian Negara. <https://www.cnnindonesia.com/nasional/20220302090103-12-765740/kpk-minta-pt-hutama-karya-kembalikan-kerugian-negara-rp408-miliar>, accessed on June 6 2023.

<sup>97</sup> Kompas. (2022). Eks Pejabat Adhi Karya Divonis Lebih Berat dari Tuntutan. <https://nasional.kompas.com/read/2022/08/11/22531511/eks-pejabat-adhi-karya-divonis-lebih-berat-dari-tuntutan-hakim-terdakwa-tak>, accessed on June 6 2023.

<sup>98</sup> ICW. (2005). *Obral Tanah ala Perumnas*. <https://antikorupsi.org/id/article/obral-tanah-ala-perumnas>, accessed on June 6 2023.

- **Improper planning and lack of impact analysis**

The project planning process, as seen in the Balang Island bridge and various other PSN projects, tends to have not been carried out thoroughly. Finally, the expected impact is minimal for social progress and economic growth.

For example, the results of the Logistics Performance Index (LPI), reported by the World Bank in April 2023, placed Indonesia in 61st position with a score of 3–15 places down from 46th in 2018. Out of the six components of the LPI assessment, only two scored an increase, namely customs, and infrastructure.

**Table 7. Indonesia's Logistic Performance Index (LPI) <sup>99</sup>**

| Year | LPI Rank | Score |
|------|----------|-------|
| 2007 | 43       | 3,01  |
| 2010 | 75       | 2,76  |
| 2012 | 59       | 2,94  |
| 2014 | 53       | 3,08  |
| 2016 | 63       | 2,98  |
| 2018 | 46       | 3,15  |
| 2023 | 61       | 3     |

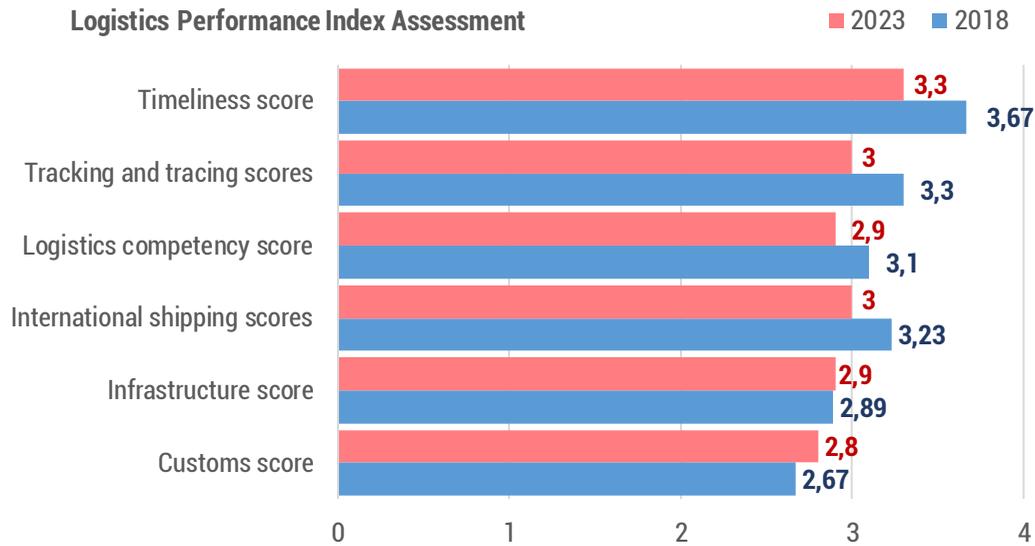
The Logistics Performance Index covers 139 countries by measuring the ease of building reliable supply chains and structural enabling factors, such as quality of logistics services, trade infrastructure, transportation infrastructure, and border controls. The LPI score comprises six assessment components: customs services, infrastructure, timeliness, tracking and tracing, international shipping, and competence and quality of logistics. Each bar will be assessed with a score of 1 (very low) to 5 (very high).

The survey results are ironic for Indonesia, considering that the government is currently building massive infrastructure, the merger of PT Pelabuhan Indonesia (Persero) or Pelindo, and implementing the National Logistics Ecosystem system. The digital system implemented by the government has not been effective due to problems with the integrity of human resources and the poor quality of law enforcement.

<sup>99</sup> Koran Tempo. (2023). *Luhut dan Polemik Performa Logistik* <https://koran.tempo.co/read/berita-utama/483364/luhut-dan-polemik-performa-logistik>, accessed on August 10 2023.

In the first quarter of 2021, Indonesia's logistics costs reached 23.5 percent of gross domestic product. This amount is higher than in ASEAN countries. In addition, timeliness is still a problem. The Indonesia National Single Window dashboard data (June 2023) shows that the average dwelling time or time for loading and unloading goods at Indonesian ports reaches 2.9 days. While in the port of Singapore, it only takes one day, and in Malaysia, it takes two days.

**Graph 7. Trend of Indonesia's Logistics Performance Index (2018 and 2023)<sup>100</sup>**



This means that infrastructure development often does not consider efficiency factors, such as logistics and inter-regional connectivity. This causes price disparities between regions to remain high, and accessibility issues are not handled.

On the other hand, the government is also considered to have deliberately concealed environmental impact studies of several construction projects for IKN supporting facilities in North Penajam Paser, East Kalimantan. For example, the Sepaku-Semoi Dam and the Sepaku River projects started last year, but until now, the government has not yet opened an environmental study on these mega projects. This impacts the 35 ancestral tombs in the burial area of the Balik tribe, which were evicted.

<sup>100</sup> Koran Tempo. *Ibid.*

The Alliance of Indigenous Peoples of the Archipelago (AMAN) of East Kalimantan assesses that the development of IKN does not have a clear concept of environmental planning. This ambiguity, in turn, damages the environment and local community areas. On the other hand, the Directorate General of Natural Resources of the Ministry of PUPR said that all developments in the IKN Area have had an environmental impact study, and socialization of the development plan has been carried out to residents beforehand.

- **Problems with the state administration of the IKN Authority give rise to the potential for abuse of authority**

Since the beginning, the IKN Law designed the authority to be a special regional government led by ministerial-level officials without any people's representative institutions at the local level (Article 5 Paragraph 4 and Article 4 Paragraph 1 letter b). The President also directly appoints the official (Article 5 Paragraph 4).

It is stated that the authorities can regulate and manage their affairs (Article 5, Paragraph 2, and Paragraph 6). This is the key from the (legal) perspective of state administration. These articles are related to governance that is developed, created, and running within the IKN institution, including using public finances to develop the IKN.

The right to self-regulate within the IKN institution is the first source of the anomaly. Institutions such as authorities that do not have organs counted as political institutions equipped with regulatory authority are unusual. It was declared a ministerial-level institution, but its jurisdiction only covers a few inches within the territory of a province in a nation-state called Indonesia.

Even though it is stated in the Law as ministerial level, how this institution can make arrangements for itself is determined by the top leadership, then becomes the basis of its own rules; without an institution such as a council, it can quickly happen. Of course, vested interest is wide open.

If it is severe, it is necessary to form an authority board or ministry of IKN Authority affairs at the national level as the regulator, which later the authority in the field will only act as the executor (administrator). This authority is without autonomy and is administrative only has administrative authority. The self-regulation provided by the IKN Law, which contains these anomalies, is also prone to abuse of power.

#### 4. Sidrap 1 Wind Power Plant

| INDICATION OF CORRUPTION RISK IN PROJECT SELECTION - INITIAL ASSESSMENT |  |
|---|--|
| <b>Project name</b>   | The Sidrap I Wind Power Plant  |
| <b>Project brief description</b>  | <p>This project is the first wind power plant in Indonesia whose location for construction and operation is located in the Pabbareng Mountains in Lainungan Village and Mattirotasi Village, Watang Pulu District, Sidenreng Rappang Regency, South Sulawesi. The development of this project includes a green economic growth program that is expected to support the energy sector, particularly in the renewable energy and energy efficiency sub-sectors.</p> <p>PT UPC Sidrap Bayu Energi is a combination of three companies full of experience in the renewable energy industry: UPC Renewables, PT Binatek Energi Renewable, and AC Energi, with an investment of US\$ 150 million. This project is owned in partnership with AC Energy Holding (a subsidiary of Ayala Corporation) with bank financing by the US Overseas Private Investment Corporation.</p> <p>The first and largest commercial-scale wind-powered generator in Indonesia was completed after 2.5 years of construction, to be exact, in March 2018. This generator can supply more than 70,000 electricity customers with 900 Volt Ampere (VA) power. With a total investment value of US\$150 million, the PLTB produces 75 Mega Watt (MW) of electricity using 30 windmills built on 100 hectares.</p> |
| <b>Project owner / Institution</b>                                      | PT Binatek Energi Terbarukan (PT BET)  |
| <b>Project vulnerability</b>  | Medium   |
| <b>The main vulnerability of the project</b>                            | Alternatives that are more urgent or of better value   |
| <b>Other vulnerabilities</b>  | <ul style="list-style-type: none"> <li>• Location</li> <li>• Possible benefits</li> <li>• Possible beneficiaries</li> <li>• Possible adverse effects</li> <li>• Type of intervention</li> <li>• Size and scope</li> <li>• Planned mitigation</li> <li>• Disaster risk</li> </ul>   |
| <b>Governance risk classification</b>                                   | 4 (high; detailed and systematic)  |

|   |   |
|---|---|
| <b>Context assessment</b>                                       | 7.2 i.e. High - An area of significant vulnerability to undue influence or corruption   |
| <b>Key governance areas of concern</b>                          | <p><i>State Aspects:</i></p> <ul style="list-style-type: none"> <li>• Election process</li> <li>• Legal and judicial system</li> <li>• Finance and public procurement</li> <li>• Cultural hierarchy</li> <li>• Openness to the media</li> <li>• Civil society activities</li> <li>• Perceptions of corruption</li> </ul> <p><i>Institutional Aspect:</i></p> <ul style="list-style-type: none"> <li>• Information disclosure</li> <li>• Community engagement</li> </ul>     |
| <b>Another area to consider</b>                                 | <p><i>State Aspect:</i></p> <ul style="list-style-type: none"> <li>• Election process</li> <li>• Access to information</li> </ul> <p><i>Institutional Aspect:</i></p> <ul style="list-style-type: none"> <li>• Executive management</li> <li>• Information disclosure</li> <li>• Budget and program transparency</li> <li>• Grievance mechanism</li> <li>• Institutional reputation and leadership</li> <li>• Personal interests</li> <li>• Community engagement</li> </ul> |
| <b>Type of project selection process</b>                        | A – Detailed and Systematic   |
| <b>Risk of Mismanagement and Undue Influence</b>                | 2.4 (Low)   |
| <b>Indication of Corruption Risk in Project Selection Cases</b> | Medium  |

|                  |  |
|------------------|--|
| <b>Narrative</b> | <p>This project was selected for monitoring because its framework includes green investment, which has implications for variations in the dynamics of business processes. One relates to when this cooperation was agreed upon by PT PLN (Persero) because it was in accordance with the 35,000 MW Program.</p> <p>On October 24, 2013, UPC signed a Memorandum of Understanding (MOU) for the power generation, supply, and sale of Sidrap Wind Farm with PLN. The MOU is the basis of the agreement between UPC and PLN for developing the Sidrap Wind Farm Project and supplying electrical energy, which led to the signing of a Power Purchase Agreement (PPA) with PT PLN.</p> <p>Through this collaboration, the decision to determine the price of electricity based on a Power Purchase Agreement (PPA) or a power purchase agreement between UPC Renewables and PLN in August 2015, the price of electricity from Indonesia's first 'giant windmill' is 11 US cents/kWh or around IDR 1,463/kWh. The PPA has a duration of 30 years.</p> <p>In addition, funding for PLTB Sidrap I comes from foreign funds, namely the United States. The notable thing is that this project was implemented without going through a political process in the DPR, so it seems that from a systemic point of view, this project does not have a corruption vulnerability that needs to be watched out for.</p> <p>However, the agreement document and other stipulation documents could not be found, and there was no sufficiently detailed information, including the purchase price per kWh of PLTB Sidrap 1 electricity purchased by PLN and the sale value of PLN to consumers. The corruption risk in the project is related to the PPA scheme that has been designed beforehand, where the contract is made to the detriment of one of the parties due to the intervention of various parties who have an interest in the project.</p> |
|------------------|--|

The Indonesian government's commitment to realize an energy mix of 23% in 2025 begins with the seriousness of developing new renewable energy to build the Sidrap I PLTB. Thus, the development plan for the Sidrap PLTB in South Sulawesi has been stated in the 2016–2025 State Electricity Company Business Plan for the Supply of Electricity (RUPTL). PLN 2016–2025).

Sidrap I Wind Power Plant (PLTB) is located in Mattirotasi Village and Lainungan Village, Kec. Watang Pulu, Sidenreng Rappang Regency, South Sulawesi, is included in the green investment project category<sup>101</sup>. This approach to energy planning will create a solid foundation for strengthening energy security, developing energy infrastructure, increasing the use of renewable energy, and reducing energy subsidies<sup>102</sup>.

The government, through PT Perusahaan Listrik Negara (PLN), together with the Overseas Private Investment Corporation (OPIC) and PT UPC Sidrap Bayu Energy, signed a Letter of Cooperation (LoC) to invest in the construction of wind power in Sidrap, South Sulawesi. The President signed the cooperation agreement and CEO of The Overseas Private Investment Corporation (OPIC), Elizabeth L Littlefield, and the President Director of PT UPC Sidrap Bayu Energy, Brian Caffyn, witnessed by the Main Director of PLN, Sofyan Basir, and the Director of Procurement of PLN, Supangkat Iwan Santoso, at the Auditorium of the PLN Head Office, Jl Trunojoyo, South Jakarta, on 7 April 2016.

This PLTB, with a capacity of 70 MW, is capable of converting wind power into electrical energy by using a wind turbine or windmill as a generator. Wind or wind is one of the renewable energy sources found in areas with great potential for wind gusts. Sidrap was chosen as the site for the PLTB because it has a good wind speed of 7 meters per second (m/s). The presence of the Sidrap PLTB as the first wind power plant in Indonesia with 30 pinwheel turbines also makes a significant contribution to the renewable energy mix in South Sulawesi.

The construction of this project is carried out by PT UPC Renewables Indonesia and PT Binatek Energi Renewable with an investment of US\$ 150 million. The first and largest commercial-scale wind-powered generator in Indonesia was completed after 2.5 years of construction in March 2018, to be precise. The government began commercially operating PLTB Sidrap I on April 5, 2018.

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<sup>101</sup> At that time, green investment in the energy sector was one of the priorities of the Indonesian government. The government's efforts to show its seriousness in developing new renewable energy by attracting domestic and foreign investors towards green infrastructure development through the "Tropical Landscapes Summit: A Global Investment Opportunity" 27-28 April 2015, in Jakarta. The Green Growth Program seeks to create an enabling environment for green investment and raising capital, which it does by helping governments to build investor confidence, attract capital, and create sustainable 'green' business models that generate profits, as well as open up new untapped opportunities.

<sup>102</sup> In December 2022, PT UPC Sidrap Bayu Energy (SBE) announced that the Sidrap PLTB had reached a significant milestone by producing more than 1,000 GWh of clean, green, and renewable energy since achieving COD in April 2018, enough to power more than 900,000 customers. The clean energy generated by the 75 MW Sidrap PLTB is channeled through PT PLN (Persero)'s 150 kV transmission network to meet electricity needs in the South, Southeast, and West Sulawesi (Sulselrabar) Electricity Grid. Thirty high-tech wind turbines operating and providing clean renewable energy electricity 24 hours a day, seven days a week, and 365 days a year contribute to Indonesia's commitment to achieving a renewable energy mix of 23% in 2025 and a net-zero emissions target in 2060. In July 2023, the Minister of Finance Sri Mulyani Indrawati stated that the utilization of New and Renewable Energy (EBT) in Indonesia was still low, at 0.5 percent of its total potential. Indonesia has much potential for new and renewable energy from water, geothermal, and others..

After three months of running this project, President Joko Widodo inaugurated the Sidrap I PLTB on July 2, 2018. This plant can supply more than 70,000 electricity customers with 900 Volt Ampere (VA) power. With a total investment value of US\$150 million, the PLTB produces 75 Mega Watt (MW) of electricity using 30 windmills built on 100 hectares. This project has absorbed a workforce of 709 people consisting of 95% Indonesian workers and 5% foreign workers. The result of the Sidrap I PLTB project is that around 150 thousand households can be electrified.

Former Secretary of the Ministry of BUMN, Said Didu, said that the Sidrap PLTB project, South Sulawesi, did not have many benefits. He even claimed that the local community had rejected the electricity supply from the PLTB due to the unstable supply, so they feared it would trigger damage to household electronic equipment. Meanwhile, the electricity generated is also considered not under PT Perusahaan Listrik Negara (Persero) expectations.

Taking into account that the funding for this project comes from the United States and is part of a project supervised by USAID operating in Indonesia, without going through the political process in the DPR, it seems that from a systemic point of view, this project does not have any particular corruption vulnerabilities. The United States already has FCPA (Foreign Corrupt Practices Act) rules, namely the prohibition of bribing foreign public officials, where the jurisdiction of the use of this FCPA goes beyond the jurisdiction of the United States, including it can be applied in Indonesia if there is a project funded from sources from the United States.



*Photo: wahananews.co*

From the explanation and elaboration of the search findings, the following are a number of crucial points for the analysis of this project:

- **Risk of Corruption in the PPA (Power Purchase Agreement) scheme**

One of the problems inherited from PLN is that PLN buys electricity from the private sector at a higher price than selling it to consumers. While most of the contracts are long-term, this is part of the concession scheme. At the same time, the state gave PLN a monopoly to provide electricity to the community and industry.

From the search, an explanation was obtained stating that UPC Renewables Indonesia (UPC RI) is a subsidiary of UPC Renewables Ltd., Formed in 2012 and has head offices in Bali and Jakarta. UPC Renewables Indonesia formed a consortium with PT Binatek Energi Renewable, which resulted in an SPV (Special Purpose Vehicle) company, PT UPC Sidrap Bayu Energi, which handled and developed the Sidrap I PLTB.

Collaboration between IPP originating from UPC Renewables and Indonesia by PT. PLN (Persero) began by signing the Power Purchase Agreement (PPA) on August 19, 2015. This agreement is a purchase of electricity by PT PLN (Persero) from a private business entity, namely UPC Renewables, for the Sidrap 70 wind power project. Megawatts (MW).

Whereas UPC Renewables, as a business entity selling electricity, has an obligation to fund, design, build, own, operate, and transfer power plants. Previously this project was also part of the Memorandum of Understanding signed by UPC Renewables Indonesia with the Governor of South Sulawesi in October 2014 because, in 2013, UPC Renewables had surveyed to map wind potential in the Sidenreng Rappang Regency, South Sulawesi Province.

This collaboration was agreed upon by PT PLN (Persero) because it is in accordance with the 35,000 MW Program, so new power plants in Indonesia must be realized. In this regard, PT Perusahaan Listrik Negara or PT PLN (Persero) is an electricity company part of a State-Owned Enterprise. PT PLN (Persero) is responsible for most power generation in Indonesia and has exclusive power over the transmission, distribution, and supply of electricity to the public.

On October 24, 2013, UPC signed a Memorandum of Understanding (MOU) for the power generation, supply, and sale of Sidrap Wind Farm with PLN. The MOU is the basis of the agreement between UPC and PLN for developing the Sidrap Wind Farm Project and supplying electrical energy, which led to the signing of a Power Purchase Agreement (PPA) with PT PLN.

Thus, it is necessary to analyze further the agreed content of the PPA between PLN and the electricity buyer from this project. Unfortunately, the PPA documents related to this project are not widely publicized, and there is no sufficiently detailed information on how much PLN buys per kWh of PLTB Sidrap 1 electricity production and how much PLN sells to consumers. The point prone to PPA corruption is in the corruption scheme that has been designed beforehand, where the contract is made to the detriment of one of the parties due to the intervention of various parties interested in the project.

- **SOE Monopoly Risk in Green Investment**

PT PLN (Persero), in its role, is the party that buys electricity from PT UPC Sidrap Bayu. This Power Purchase Agreement is in accordance with Minister of Energy and Mineral Resources RI Regulation Number 10 of 2017, which has been amended to become Minister of Energy and Mineral Resources Regulation Number 49 of 2017 concerning Principles in the Power Purchase Agreement.

PT PLN (Persero) purchased electricity for 11 cents/kWh on August 18, 2015. This Power Purchase Agreement was entered into so that the cooperation carried out has transparent, fair values and provides legal certainty in its implementation.

Following the PPA negotiations, the Director General of Electricity issued a Letter of Intent, enabling UPC Sidrap Bayu Energi to apply for a temporary Power Supply for a Public Consumption Permit (IUKU), which was well accepted. This permit allows PT UPC Sidrap Bayu Energi to generate, supply, and sell electricity and is a legal requirement in Indonesia.

In the 2019-2038 Electricity Supply Business Plan (RUPTL), PT PLN (Persero) is required to accelerate electricity infrastructure development, including in the 35,000 MW electricity development program. In the RUPTL, the role of the private sector in power plant construction is expected to be more significant, and PT PLN (Persero) must prioritize the construction of power plants from new renewable energy, one of which is by realizing the PLTB Sidrap I Development to help increase the non-renewable energies (NRE) mix also in Indonesia.

- **Concession and Risk Scheme in Planning**

Concessions are grants of rights, permits, or land by governments, corporations, individuals, or other legal entities. Concessions are applied, among others, to opening mines and logging forests. The concession model applies to public-private partnerships (KPS) or production-sharing contracts. For the Sidrap I PLTB development project, concessions are also applied where EBT electrical products in the EBT development industry must go through Indonesian government policies.

Meanwhile, in countries such as the United States, Germany, and the Netherlands, the EBT development industry has a place because the private sector can sell EBT electricity products directly to the surrounding community. However, it does not apply in Indonesia because it implements an electricity monopsony. Three EBT project procurement schemes are most commonly used internationally, namely BOOT (build, own, operate, transfer/development, ownership, operation, and transfer), BOT (build, operate, transfer/development, operation, and transfer), and BOO (build, own, operate).

Meanwhile, the BOO option in Indonesia tends to be less popular because it gives private parties broad ownership rights over electricity assets. Moreover, the Constitutional Court (MK) has ruled that electricity control must fall to the state, not the private sector. The decision came out at the end of 2016 when the Constitutional Court granted part of the lawsuit against Law No. 30/2009 concerning electricity. One concerns the private sector's involvement in the power plant infrastructure development process.

Following this decision, the government issued ESDM Regulation Number 50/2017, which requires all EBT electricity projects to be worked on under the BOOT scheme (except for waste power projects). However, the BOO scheme is still used in old electricity projects because the Constitutional Court's decision is not retroactive. One of them is the Sidrap PLTB, the largest in Southeast Asia, and uses the BOO scheme.

Because there is no provision for transferring ownership after the concession period ends for the next 30 years, the government has set a lower tariff for the next stage of the Sidrap PLTB. However, other projects must be carried out under the BOOT scheme<sup>103</sup> in accordance with the provisions of the Minister of Energy and Mineral Resources Number 50 of 2017 and the Minister of Energy and Mineral Resources Number 10 of 2017. The considerations underlying the decision include the equality of the risks of buying and selling electricity between PLN and the developer (independent power producer/IPP), guarantees for the reliability of the electricity supply, guarantees that the supply of electricity is controlled by the state, and compliance with the standards of the electricity sale and purchase agreement (PJB).

For the Indonesian government, this risk of high costs appears to have been anticipated by applying the BPP per region. From the combination of the two schemes, namely BOOT from the perspective of the project concession scheme and BPP from the pricing mechanism perspective, it can be concluded that the Indonesian government has chosen to take a middle path between encouraging the development of cheap EBT and creating a competitive EBT business climate. This option is certainly not ideal. However, referring to some of the studies above, BOOT can be considered a middle ground. In the midst of these conditions, the government must underline the importance of aspects of efficient licensing so as not to create additional obstacles that face private investment in EBT.

This is crucial if Indonesia does not want to lead to a decline in perceptions of ease of doing business in the EBT sector in Indonesia. Moreover, extended, complicated permits are still a separate note, especially at the local government level. The licensing process can also vary depending on the project area. For PLTB Sidrap I alone to run a power plant project, investors must request permission from several related ministries, institutions, and agencies. Including project development permits from the regional head or local government where the project is built.

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<sup>103</sup> Research from the University of Salford shows that the BOOT scheme is an intermediate scheme in terms of sustainability accountability. Based on a source from CNBC, the research report entitled "A Comparison of PFI, BOT, BOO, and BOOT Procurement Routes for Infrastructure Construction Projects" states that most involvement of the private sector in public projects falls on BOT and BOOT schemes that have a spectrum of risks and responsibilities, which balanced between the government and the private sector according to their capacity and strength. Meanwhile, research by the Birla Institute of Technology and Science in India (the only country in Asia that has a Ministry of Renewable Energy) states that, in principle, there is no difference in the use of BOOT, BOT, or BOO schemes in attracting private parties in EBT projects. However, the study mentions the weaknesses of the BOOT scheme compared to others, namely the high costs at the end-user level, as well as time-consuming and costly management and supervision.

Apart from needing to include project plans in the RUPTL and participate in PLN tenders, they also have to visit the Ministry of Agrarian Affairs and Spatial Planning/State Land Agency (ATR/BPN) to arrange Technical Considerations documents, then to the Ministry of Environment and Forestry (KLHK) regarding Amdal.

This collaboration also implements several investment policies listed in Presidential Regulation Number 44 of 2016 concerning the List of Closed Business Fields and Open Business Fields with requirements in the investment sector that are regulated as Foreign Investment of a maximum of 95% for power plants above 10 MW or Maximum 100% if the cooperation between the private government/KPS during the concession period.



*Photo: mottmac.com*

## **B. Findings on the Situation of Infrastructure Data Openness in Indonesia**

The results of an analysis of four infrastructure projects in Indonesia that used the ICRAT instrument confirm that the information disclosure regime is not yet a priority, even though public information disclosure is one of the factors that can suppress and prevent corruption.

Nonetheless, in general, the condition of public information disclosure in Indonesia shows a better trend. This is marked by an increase in informative public bodies and a decrease in non-informative public bodies, according to the Information Commission's 2021 ranking report 2.

Indonesia itself has a relatively complete regulatory framework in terms of data disclosure. KIP Law No. 14 of 2008 provides a legal basis for access to public information, including infrastructure data. However, implementation of this regulation still faces several challenges, such as low awareness and capacity of government staff to manage public data, lack of adequate technology infrastructure, and concerns about data privacy and security.

In addition, there are still challenges in coordination between government agencies in managing and using public data. Some sectors, such as health and education, are still experiencing limitations in publicly publishing data. Increased cooperation between the public, private, and civil society sectors is also essential in increasing data transparency in Indonesia.



*Photo:postshift.com*

**The following are a number of points of weakness in data disclosure regulations in Indonesia that were found, including:**

- **Implementation that is not yet fully effective:** Even though Indonesia has regulations governing data disclosure, implementation is still ineffective. Many government agencies have not fully implemented data openness practices, publicly publishing data and providing easy access for the public.
- **Low awareness and capacity:** The main challenge in implementing open data is government staff's low awareness and capacity in managing and publishing data openly. Better education and training are needed to increase understanding of the importance of open data and skills in managing, classifying, and uploading data effectively.
- **Limited technology infrastructure:** Adequate technological infrastructure is critical to supporting data openness. However, there are still limitations in terms of infrastructure, including limited internet access in some areas, a lack of the necessary hardware and software to manage data efficiently, and a lack of sufficient server and data storage capacity.
- **Data privacy and security:** One of the main concerns regarding data disclosure is privacy and security. There is a risk that publicly published data could be misused or fall into the wrong hands, threatening the privacy of specific individuals or groups. Therefore, there is a need for solid regulations in managing and protecting personal data.
- **Coordination between government agencies:** Good coordination between government agencies is an essential factor in the management and use of public data. However, there are still challenges in coordination between different government agencies at central and regional levels regarding data management and exchange. Lack of coordination can hinder access to and effective use of data.
- **Limitations of specific sectors:** Some sectors, such as health and education, still experience limitations in publicly publishing data. There is a need to increase the understanding and commitment of these sectors in adopting open data practices so that the public can benefit from the available data.
- **Limited public participation:** Although open data aims to encourage public participation in public decision-making, public participation in open data practices is still limited. Communities must be encouraged to use and interpret data practically and involve themselves in decision-making processes based on available information.

- **There is no clear standard of information:** Even though it has been regulated in several regulations and government policies, data disclosure standards in Indonesia, especially in the infrastructure sector, implementation in the field shows that the data that is disclosed is still deemed not to provide sufficient information for the public. For example, simple data such as the objectives of an infrastructure project cannot be seen in several transparency portals such as LPSE and SIRUP. Coupled with the difficulty in using the portal.

If observed as a whole, the condition of public information disclosure in Indonesia is still very low. This development is also reflected in the report showing that most public bodies are in the uninformative category, namely 29.67%. It should be noted that the evaluation of the Information Commission has not included District/City Governments as one of the Public Bodies being evaluated.



*Photo:ruralopendata.ca*

**Table 8. Results of the 2021 Public Information Disclosure Evaluation<sup>104</sup>**

| No                | Public Agency Qualification                                    | Informative       | Towards Informative | Informative Enough | Less Informative  | Not Informative   |
|-------------------|--|-------------------|---------------------|--------------------|-------------------|-------------------|
| 1                 | College  | 21 BP<br>(24,71%) | 15 BP<br>(17,65%)   | 13 BP<br>(15,29%)  | 12 BP<br>(14,12%) | 24 BP<br>(28,24%) |
| 2                 | State-owned enterprises  | 6 BP<br>(5,94%)   | 15 BP<br>(14,85%)   | 17 BP<br>(16,83%)  | 16 BP<br>(15,84%) | 47 BP<br>(46,53%) |
| 3                 | Non-Structural Institutions                                    | 2 BP<br>(6,06%)   | 7 BP<br>(21,21%)    | 5 BP<br>(15,15%)   | 3 BP<br>(9,09%)   | 16 BP<br>(48,48%) |
| 4                 | State Institutions and Non-Ministerial Government Institutions | 16 BP<br>(39,02%) | 6 BP<br>(14,63%)    | 4 BP<br>(9,76%)    | 6 BP<br>(14,63%)  | 9 BP<br>(21,95%)  |
| 5                 | Provincial government  | 10 BP<br>(29,41%) | 11 BP<br>(32,35%)   | 10 BP<br>(29,41%)  | 0 BP (0%)         | 3 BP<br>(8,82%)   |
| 6                 | Ministry   | 24 BP<br>(70,59%) | 7 BP<br>(20,59%)    | 2 BP<br>(5,88%)    | 0 BP (0%)         | 1 BP<br>(2,94%)   |
| 7                 | Political Party  | 4 BP<br>(44,44%)  | 2 BP<br>(22,22%)    | 3 BP<br>(33,33%)   | 0 BP (0%)         | 0 BP (0%)         |
| Total 337 BP      |  | <b>83 BP</b>      | <b>63 BP</b>        | <b>54 BP</b>       | <b>37 BP</b>      | <b>100 BP</b>     |
| <b>Percentage</b> |  | <b>24,63%</b>     | <b>18,69%</b>       | <b>16,02%</b>      | <b>10,98%</b>     | <b>29,67%</b>     |

Therefore, public information disclosure in the infrastructure sector requires more attention from the government. This is necessary to ensure that the 382 trillion government budget 2023 generates the appropriate value for infrastructure. In practice, the government is only required to publish the tender stages of infrastructure procurement in each region through the LPSE website.

In terms of regulation, the Law on Public Information Disclosure is also considered not to have been implemented optimally. The number of public bodies that are not informative is quite large, but no sanctions have been imposed on any public bodies related to their obligations to implement UU KIP.

<sup>104</sup> Komisi Informasi Pusat. (2022). *Anugerah Keterbukaan Informasi Publik Tahun 2021*. <https://komisiinformasi.go.id/galeri/detail/34>, accessed on July 21 2023

Improvements and enhancements in this regard will help increase the effectiveness of data disclosure regulations in Indonesia and ensure better data utilization in public decision-making and citizen participation.

### **Efforts to Encourage Public Information Disclosure in Indonesia**

Several efforts from the government related to public information disclosure can be seen as follows:

1. **Public Information Disclosure Act:** In 2008, Indonesia passed the Public Information Disclosure Act (UU KIP). This law provides a legal basis for public access to public information and data managed by public institutions. UU KIP grants citizens access rights to information and data relevant to the public interest.
2. **Information Disclosure Policy in Government Institutions:** The Government of Indonesia has implemented an information disclosure policy in various government institutions. This policy instructs government agencies to actively publish public information and data openly and provide easy access to the public.
3. **Establishment of Central and Regional Information Commissions:** To oversee the implementation of UU KIP, Indonesia has established Central Information Commissions (KIP) and Regional Information Commissions (KID) at the central and regional levels. KIP and KID have an essential role in ensuring public institutions fulfill their obligations in providing access to information to the public.
4. **Open Data Program:** The Government of Indonesia has launched an Open Data program that aims to publish government data in an open and easily accessible way for the public. The program encourages government agencies to share their data in a reusable (machine-readable) format and provides an open data portal to the public.
5. **Digitalization of Public Services:** Digital transformation in public services is also an effort to reform openness. The Indonesian government has encouraged using information and communication technology in public services, including publishing relevant data and information through official government portals and mobile applications.
6. **Collaboration with Third Parties:** The government has also collaborated with civil society organizations, academia, and the private sector in promoting data openness. This collaboration includes developing an open data platform, organizing data competitions, and training to increase data management capacity in the public sector.

This openness reform effort aims to increase transparency, accountability, and public participation in public decision-making. Although there are still challenges in implementation, these steps demonstrate the Indonesian government's commitment to creating a more open government that is responsive to society's needs.

In brief, by looking at the availability of project data with the international Infrastructure Data Standard (IDS) developed by the Construction Sector Transparency Initiatives (CoST), the following data can be seen:

**Table 9. Information Disclosure of Infrastructure Projects in ICRAT**

| Project Name                              | Proactive Data   | Reactive Data   |
|---|--|---|
| Jakarta–Bandung High Speed Rail Project   | <ul style="list-style-type: none"> <li>• PT. KCIC does not provide Structured Proactive Data that the public can access</li> <li>• There is only 1 data item found, namely the objective of the infrastructure project (based on 40 IDS metadata)</li> <li>• The only documents available are an announcement of an open tender and a notification of the development plan from the provincial secretariat of DKI Jakarta.</li> <li>• Data on work progress is only in the form of photos which are very difficult to use as a source of analysis data.</li> </ul> | <ul style="list-style-type: none"> <li>• There is no data request mechanism other than providing a "Contact Us" page on the PT. KCIC</li> </ul>   |
| Balang Island Bridge Construction Project | <ul style="list-style-type: none"> <li>• Proactive data using the LPSE scheme</li> <li>• The data obtained is in the form of project ID, Project Name, Project Budget, and Budget Source and is limited to the tender stage</li> <li>• Searching for RUP data through SIRUP is difficult because no search is based on the RUP code or project name. Several attempts have been made, but the document has not been found</li> </ul>   | Mechanisms for requesting reactive data in particular are not yet available online in a portal that is easily accessible to the public.   |
| Hambalang P3SON Project                   | No proactive data of any kind (LPSE Ministry of Youth and Sports published data starting from 2012)  | Mechanisms for requesting reactive data in particular are not yet available online in a portal that is easily accessible to the public.   |
| Sidrap I wind power plant (PLTB)          | <ul style="list-style-type: none"> <li>• No proactive data of any kind through the UPC Renewable website or PT Sidrap Bayu Energi, and PT Binatek Reka Energi</li> <li>• Information regarding PT Binatek Reka Energi cannot be accessed digitally and some information states that the office is permanently closed.</li> </ul>   | Proactive data obtained in the form of RKL-RPL Documents and Addendum Andal, RKL-RPL from third party websites which are difficult to confirm the truth and accountability regarding these documents. |

Almost all project data was limited, and challenging to obtain the four selected infrastructure projects except for the Hambalang P3SON Development Project, whose data was obtained from a Court Decision. From the above data, it can be concluded that all infrastructure projects selected in ICRAAT have not been able to fulfill the mandate of UU KIP; even work that is not carried out by a public body, almost no information is provided either in a proactive or reactive form through official channels from the project implementer.



*Foto: ruralopendata.ca*

## CONCLUSIONS AND RECOMMENDATIONS

ICRAT's pilot assessment of these four government projects found a high risk of corruption. The first indication can be seen clearly from the undue influence of PEPs (Politically-exposed Persons) actors. In the project proposal process, there is a powerful nuance of political corruption, where corrupt practices have been carried out jointly by the project proposers from the executive and legislative sides who determine and approve projects. This situation is exacerbated by the minimal involvement of external parties and the suboptimal mechanism of checks and balances, which has the potential to strengthen the practice of state-capture corruption in infrastructure projects.

Second, a situation full of conflicts of interest followed by an indication that information disclosure related to project planning is inadequate. All projects monitored failed to fulfill the mandate of the Public Information Disclosure Act to ensure that public agencies provide public information and the quality of the information. Information related to project legality and feasibility documents seems closed where almost the public cannot access them. One of the main factors is the poor disclosure of information related to the pre-project work process.

Third, the project selection stage by the selection team tends not to be carried out comprehensively, and the project planning is immature. The assessment team often does not carefully consider the proposals submitted. This is evident in the frequent emergence of unexpected costs, which result in cost overruns due to not being anticipated since the feasibility study stage, such as during the land acquisition stage. Strengthening this evidence, there were no development plan documents that the public could access or respond to public bodies during the tracing process.

Therefore, this ICRAT assessment pilot prompted the following recommendations to be implemented by stakeholders in the infrastructure sector:

1. **For the Central Government** to encourage more progressive efforts to improve the business and investment climate, including coordinating a strategy for preventing corruption from resolving conflicts of interest in the selection phase for National Strategic Projects, Priority Projects, and Green Investment Projects;

2. **For the Public Agencies** to develop and implement information disclosure data standards, especially in the infrastructure projects stage;
3. **For the House of Representatives** to strictly and consistently apply a check and balances mechanism in the selection phase of government projects in the infrastructure sector, especially on National Strategic Projects, Priority Projects such as supporting infrastructure for the Archipelago Capital City (IKN), and Green Investment Projects;
4. **For the Infrastructure Business Actors**, including State-Owned Enterprises (BUMN), to build and consistently implement a more mature vulnerability and mismanagement detection system, improve the whistle-blowing system mechanism, and anti-bribery management so that the risk of corruption from the project selection stage can be prevented;
5. **For the Civil Society Groups** to actively utilize the ICRAT instrument to be able to detect corruption risks in government infrastructure projects at the election stage, as well as encourage more massive citizen organizing in monitoring infrastructure projects in general.

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## LIST OF LEGISLATION

### A. List of Infrastructure Regulations

#### 1. Priority Infrastructure

| Legislation   | About  |
|---|--|
| <a href="#">Presidential Regulation No. 75 of 2014</a>  | Acceleration of Priority Infrastructure Provision  |
| <a href="#">Presidential Regulation No. 122 of 2016</a> | Amendments to Presidential Regulation Number 75 of 2014 Concerning the Acceleration of Priority Infrastructure Provision                                     |
| <a href="#">Permenko No. 5 of 2017</a>                  | Amendments to the Regulation of the Coordinating Minister for the Economy Number 12 of 2015 Concerning the Acceleration of Priority Infrastructure Provision |
| <a href="#">Permenko No. 12 of 2015</a>                 | Acceleration of Priority Infrastructure Provision  |
| <a href="#">Kepmenko No. 127 of 2015</a>                | The Implementation Team for the Committee for the Acceleration of Infrastructure Provision   |

#### 2. National Strategic Project

| Legislation  | About   |
|--|---|
| <a href="#">Presidential Regulation No. 56 of 2018</a> | Second Amendment to Presidential Regulation Number 3 of 2016 Concerning the Acceleration of Implementation of National Strategic Projects |
| <a href="#">Presidential Instruction No. 1 of 2016</a> | Acceleration of Implementation of National Strategic Projects   |
| <a href="#">Presidential Regulation No. 3 of 2016</a>  | Acceleration of Implementation of National Strategic Projects   |
| <a href="#">Presidential Regulation No. 58 of 2017</a> | Amendments to Presidential Regulation Number 3 of 2016 Concerning the Acceleration of Implementation of National Strategic Projects       |
| <a href="#">Government Regulation No. 42 of 2021</a>   | Government Regulation Number 42 of 2021 concerning Ease of National Strategic Projects  |

|   |   |
|---|---|
| <a href="#">Attachments II and II Copies of PP No. 42 of 2021</a> | Attachments I and II Copies of PP Number 42 of 2021   |
| <a href="#">Government Regulation No. 40 of 2021</a>              | Implementation of Special Economic Zones  |
| <a href="#">Government Regulation No. 42 of 2021</a>              | Ease of National Strategic Projects   |
| <a href="#">Government Regulation No. 19 of 2021</a>              | Implementation of Land Procurement for Development for Public Interests   |
| <a href="#">Government Regulation No. 23 of 2021</a>              | Forestry Administration   |
| <a href="#">Government Regulation No. 20 of 2021</a>              | Management of Abandoned Areas and Lands   |
| <a href="#">Government Regulation No. 18 of 2021</a>              | Management Rights, Land Rights, Flats Units, and Land Registration  |
| <a href="#">Government Regulation No. 43 of 2021</a>              | Settlement of Inconsistencies in Spatial Planning, Forest Areas, Permits, and/or Land Rights  |
| <a href="#">Permenko 9 of 2022</a>                                | Amendments to the Regulation of the Coordinating Minister for Economic Affairs Number 7 of 2021 Concerning Changes to the List of National Strategic Projects |

### 3. KPBU

| Legislation  | About  |
|--|--|
| <a href="#">Presidential Regulation No. 88 of 2017</a> | Settlement of Land Tenure in Forest Areas  |
| <a href="#">Presidential Regulation No. 38 of 2015</a> | Government Cooperation with Business Entities in Infrastructure Provision  |
| <a href="#">PMK No. 190 of 2015</a>                    | Payment for Availability of Services in the Context of Cooperation between the Government and Business Entities in the Provision of Infrastructure                     |
| <a href="#">PMK No. 260 of 2016</a>                    | Procedures for Payment for Availability of Services in Cooperation Projects between the Government and Business Entities in the Context of Provision of Infrastructure |

|  |   |
|--|---|
| <a href="#">PMK No. 223 of 2012</a>        | Provision of Feasibility Support for Part of the Construction Cost in Cooperation Projects between the Government and Business Entities in the Provision of Infrastructure                  |
| <a href="#">PMK No. 143 of 2013</a>        | Guidelines for Provision of Feasibility Support for Part of the Construction Cost in Cooperation Projects between the Government and Business Entities in the Provision of Infrastructure   |
| <a href="#">PMK No. 170 of 2015</a>        | Changes to PMK Number 143 of 2013 concerning Guidelines for Providing Feasibility Support for Part of Construction Costs in Public Private Partnership Projects in Infrastructure Provision |
| <a href="#">PMK No. 265 of 2015</a>        | Facilities in the Context of Preparation and Implementation of Project Transactions of Cooperation between the Government and Business Entities in the Provision of Infrastructure          |
| <a href="#">Permen PPN No. 4 of 2015</a>   | Procedures for Implementing Government Cooperation with Business Entities in the Provision of Infrastructure  |
| <a href="#">Perka LKPP No. 19 of 2015</a>  | Procedures for Implementing Procurement of Business Entities in Cooperation between the Government and Business Entities in the Provision of Infrastructure                                 |
| <a href="#">Permendagri No. 96 of 2016</a> | Availability Payment in the Context of Regional Government Cooperation with Business Entities for Infrastructure Provision  |

#### 4. Infrastructure Guarantee

| Legislation   | About  |
|---|--|
| <a href="#">Presidential Regulation No. 78 Tahun 2010</a> | Infrastructure Guaranty in Government Cooperation Projects with Business Entities Conducted Through Infrastructure Guarantee Business Entities |
| <a href="#">PMK No. 260 of 2010</a>                       | Instructions for Implementation of Infrastructure Guarantee in Government Cooperation Projects with Business Entities                          |

#### 5. Land Procurement

| Legislation   | About   |
|---|---|
| <a href="#">UU No. 2 of 2012</a>                          | Land Procurement for Development For Public Interests   |
| <a href="#">PP No. 40 of 1996</a>                         | Cultivation Right, Building Utilization Right and Land Utilization Right  |
| <a href="#">Presidential Regulation No. 40 Tahun 2014</a> | First Amendment to Presidential Regulation Number 71 of 2012 concerning Implementation of Land Acquisition for Development in the Public Interest |

|  |  |
|--|--|
| <a href="#">Presidential Regulation No. 99 of 2014</a>     | Second Amendment to Presidential Regulation Number 71 of 2012 concerning Implementation of Land Acquisition for Development in the Public Interest               |
| <a href="#">Presidential Regulation No. 30 of 2015</a>     | Third Amendment to Presidential Regulation Number 71 of 2012 concerning Implementation of Land Acquisition for Development in the Public Interest                |
| <a href="#">Presidential Regulation No. 148 of 2015</a>    | Fourth Amendment to Presidential Regulation Number 71 of 2012 concerning Implementation of Land Acquisition for Development in the Public Interest               |
| <a href="#">Presidential Regulation No. 102 of 2016</a>    | Funding for Land Acquisition for Development for Public Interest in the Context of Implementation of National Strategic Projects                                 |
| <a href="#">Presidential Regulation No. 56 of 2017</a>     | Management of Social Community Impacts in the Context of Provision of Land for National Strategic Projects   |
| <a href="#">Presidential Regulation No. 30 of 2015</a>     | Third Amendment to Presidential Regulation Number 71 of 2012 Concerning Implementation of Land Acquisition for Development in the Public Interest                |
| <a href="#">Presidential Regulation No. 71 of 2012</a>     | Implementation of Land Procurement for Development for Public Interests  |
| <a href="#">Kepmenko No. 4 of 2016</a>                     | Working Team for the Acceleration of Land Acquisition for Priority Infrastructure  |
| <a href="#">PMK No. 21 of 2017</a>                         | Procedures for Land Acquisition for National Strategic Projects and Management of Assets resulting from Land Acquisition by the State Asset Management Institute |
| <a href="#">PermenATR No. 9 of 1999</a>                    | Procedures for the Granting and Cancellation of State Land Rights and Management Rights  |
| <a href="#">Regulation of the Head of BPN No 5 of 2011</a> | Procedures for the Utilization of Former Abandoned Land  |

## **B. List of Regulations Per Infrastructure Project**

### **1. KCJB Project Regulations**

- Government Regulation Number 62 of 2022 concerning the Addition of the Republic of Indonesia's Equity Participation into the Share Capital of the Limited Liability Company (Persero) PT Kereta Api Indonesia, in essence, is the basis for adding PMN to KAI's share capital
- Republic of Indonesia Government Regulation Number 42 of 2021 concerning Facilitation of National Strategic Projects. In essence, this regulation contains terms, conditions and procedures for projects that fall into the category of national strategic projects in order to obtain convenience facilities from the Central Government, Regional Governments and/or Business Entities at the following stages: a. planning; b. setup; c. transaction; d. construction; and e. operation and maintenance.
- Presidential Regulation Number 93 of 2021 concerning Amendments to Presidential Regulation Number 107 of 2015 concerning Acceleration of the Implementation of Fast Train Infrastructure and Facilities Between Jakarta and Bandung. The important additions to this regulation are changes in the leadership of the BUMN consortium, project funding schemes that are allowed to use the state budget through capital participation and the formation of the Fast Train Committee between Jakarta and Bandung.
- Presidential Regulation Number 3 of 2016 concerning the Acceleration of Implementation of National Strategic Projects. In essence, it is the basis for the KCJB project to become a national strategic project.
- Presidential Regulation Number 107 of 2015 concerning the Acceleration of Implementation of Jakarta Bandung Fast Train Infrastructure and Facilities. The main points of this policy regulation are that the Government assigns a consortium of BUMN, does not use funds from the State Revenue and Expenditure Budget and does not receive government guarantees, the duties of ministries and local governments involved in the project, the procurement of goods and/or services in the context of implementing the assignment must maximize local content and cooperation with foreign partners must transfer knowledge and technology to a consortium of state-owned enterprises or joint ventures.
- Regulation of the Minister of Transportation Number PM 43 of 2011 concerning the National Railway Master Plan. This regulation forms the basis for the need to improve transportation services to become a fast train and support development in the Jakarta-Bandung area.

## 2. Balang Island Bridge Project Regulations

- State Budget (SBSN for Fiscal Year 2015-2021): The Balang Island Bridge to the new capital city is financed by State Sharia Securities (SBSN) or sukuk. The Balang Island Bridge was financed by State Sharia Securities (SBSN) worth IDR 1.4 trillion.
- UU No. 19 of 2008: Project financing through SBSN is a policy to use funds sourced from financial markets through sharia-based state securities instruments. This policy has been carried out since 2008 on the legal basis of Law Number 19 of 2008.
- PP Number 17 of 2022: "BMN includes goods purchased or obtained at the expense of the State Budget and goods originating from other legal acquisitions," reads article 99 of the rule.
- DSNMUI No. 95/DSN-MUI/VII/2014: SBSN are state securities (SBN) that the Indonesian government released as a source of sharia-based state funding. All of these investment transaction activities refer to the DSN-MUI. According to DSNMUI Fatwa No. 95/DSN-MUI/VII/2014.
- Presidential Decree No. 109 of 2020 concerning the Third Amendment to Presidential Regulation Number 3 of 2016 concerning the Acceleration of Implementation of National Strategic Projects.
- Government Regulation (PP) Number 58 of 2017 concerning the Addition of the Republic of Indonesia State Equity Participation into the Share Capital of the Limited Liability Company (Persero) PT Sarana Multi Infrastruktur.

## 3. Sidrap I PLTB Project Regulations

- Presidential Regulation Number 5 of 2006 concerning National Energy Policy to develop energy sources as a substitute for fossil fuels.
- UU Number 30 of 2007 concerning Energy.
- Government Regulation No. 79 of 2014 concerning National Energy Policy is a change from PP No. 5 of 2006 regarding National Energy Policy. The Presidential Regulation has several regulated policy targets, namely growing new renewable energy sources for both fuel and electricity sources.
- This cooperation also implements several investment policies listed in Presidential Regulation Number 44 of 2016 regarding List of Closed Business Fields, and Open Business Fields with requirements in the investment sector that are regulated as Foreign Investment of a maximum of 95% for power plants above 10 MW or a maximum of 100% if the cooperation is between the private government/KPS during the concession period (KESDM, 2019).

- The policy in the power purchase agreement for PLTB Sidrap I also refers to the Regulation of the Minister of Energy and Mineral Resources Number 10 of 2018 regarding the Main Points of the Power Purchase Agreement. This regulation guarantees the reliability of electricity supply as well as the equality of the risk of buying and selling electricity between the IPP, namely UPC Sidrap Bayu and the buyer, namely PT PLN (Persero) in the commercial aspect. The pattern of cooperation between PT PLN (Persero) and IPP is Build, Own, Operate, & Transfer (BOOT) ) and there are also provisions regarding the Commercial Operation Date (COD).
- The Ministry of Energy and Mineral Resources granted a business license for the supply of electricity to UPC Sidrap Bayu in accordance with its authority as stated in Law Number 30 of 2009 concerning electricity which includes the construction of new renewable energy power plants.
- Government Regulation No.14/2012 related to electricity supply.
- Presidential Regulation (PP) No 38 of 2015 concerning Cooperation between the Government and Business Entities in the provision of infrastructure. The PP revokes Presidential Regulation Number 67 of 2005 along with the changes revoked and declared no longer valid.
- Ministerial Regulation of ESDM Number 50/2017 which requires all EBT electricity projects to be worked on with the BOOT scheme.

## **C. Implications of the Job Creation Law for the Infrastructure Sector**

### **1. Infrastructure Sector**

From the Job Creation Law, there are implementing regulations, namely 45 PP and 4 Perpres relating to PUPR work. Of the several regulations, there are implementing regulations related to the duties and functions of the Ministry of PUPR, namely six PPs and one Presidential Decree.

The six PPs are PP Number 12 of 2021 concerning Amendments to Government Regulation Number 14 of 2016 concerning Implementation of Housing and Residential Areas. Apart from that, there is Government Regulation Number 13 of 2021 concerning Implementation of Flats and Government Regulation Number 14 of 2021 concerning Amendments to Government Regulation Number 22 of 2020 concerning Regulations for Implementing Law Number 2 of 2017 concerning Construction Services.

Then there is also PP Number 15 of 2021 concerning the Implementation of UU Number 6 of 2017 concerning Architects, PP Number 16 of 2021 concerning Regulations for the Implementation of UU Number 28 of 2002 concerning Buildings and PP Number 17 of 2021 concerning the Fourth Amendment to PP Number 15 of 2005 concerning Toll Roads. Furthermore, there is one Presidential Decree related to the Ministry of PUPR, namely Presidential Regulation Number 9 of 2021 concerning the Agency for the Acceleration of Housing Implementation.

## **2. Business Licensing**

The business licensing reforms contained in the Omnibus Law also apply to the infrastructure sector. In general, the Job Creation Law replaces the requirement to obtain several special licenses with one business license issued by the Central Government. Under the Omnibus Law:

- For the railway sector, a single business permit replaces the previous requirements for obtaining a railway business license, developing a railway and operating a railway separately.
- for the aviation sector, a single business license replaces the previous requirement to obtain airport construction, airport operation and other special permits related to airports separately.
- for the water sector, use of water resources for business purposes will be subject to a single business license, whereas use of water resources for non-business activities (ie for daily use and community farming) will require different forms of approval.

In particular, the Omnibus Law continues to allow permits and business approvals for the water sector and the railway sector to be issued by the Central Government or regional governments but only in accordance with the authority of the relevant local government based on norms, standards, procedures. and criteria (NSPK) set by the Central Government. The exact scope of this regional authority is unclear; however, it is hoped that relevant implementing regulations will provide further clarity on the licensing authority of local governments.

### **3. Guidance and Development of Micro and Small Enterprises**

In an effort to empower micro and small businesses as part of infrastructure projects, the Omnibus Law requires public infrastructure owners and operators to ensure that at least 30 percent of the total commercial and/or promotional area in all public infrastructure is allocated for infrastructure development, fostering and developing micro and small enterprises.

Previously, the micro and small business priority requirement of 30 percent only applied to toll roads that were being built (a minimum of 20 percent applied to toll roads that were already in operation). This new 30 percent minimum allocation applies to public infrastructure within terminals, airports, seaports, railway stations, toll road rest stops and service areas<sup>[6]</sup> and other public infrastructure that may be determined by the Central Government or relevant regional governments.

### **4. Domestic Maritime Transport**

As part of the general consolidation of authority within the Central Government, the Omnibus Law provides that the fixed routes designated for domestic sea transport will now be determined solely by the Central Government (and no longer require the involvement of local governments or central government associations). national sea freight company).

### **5. The Potential for Liberalization of Airport Ownership**

As discussed in our note on the impact of the Omnibus Law on foreign investment (available here), the Omnibus Law requires the issuance of a new Presidential Regulation (to be known as the Investment Priority List) which regulates, among other things, sectors open to investment, subject to certain conditions. Because legally a Presidential Decree cannot conflict with laws passed by the DPR RI (such as the Omnibus Law), the Omnibus Law removes certain restrictions on foreign ownership regulated in laws previously passed by parliament, thus allowing the business sector to further be regulated by Investment Priority List as a Presidential Regulation.

One example is the Aviation Act which has been amended with the Omnibus Law to remove the requirement for local majority ownership in the airport services business. This reform opens the possibility for the Government of Indonesia to maximize foreign ownership in companies engaged in the airport services business in Indonesia and has the potential to attract more foreign investors for airport projects in Indonesia.

## **D. Construction Industry Reform**

In the Job Creation Law, there are 33 Articles in UU No. 2 of 2017 concerning Construction Services amended in UU No. 11 of 2020 concerning Job Creation, which among other things includes regulations: Authorities of the Central, Provincial and City/District Governments; Business Licensing; Business Qualification; Building Provision Business (deletion); and Implementation of Construction Services Business.<sup>105</sup>

Meanwhile, 10 articles in UU no. 2 of 2017 is mandated to be regulated in Government Regulations, namely those related to business qualifications; business license; certification and registration of business entities; foreign construction services business; implementation of construction services; K4 standard; LPPK licensing; registration of professional experience; the implementation of some of the authority of the Central Government which includes the community in construction services; as well as the establishment of the Institute.

In addition, several things that need to be considered are the change in terms from a business license to a business license, so that it is possible to have a wider scope. Then there is also the elimination of the substance of the building supply business because it enters the realm of investment not construction services, as well as synchronization of arrangements for foreign construction workers with regulations in the field of employment.

### **1. Construction Industry Licensing**

In line with its overall objective, the Omnibus Law also aims to simplify business licensing requirements for the construction industry. All construction companies in Indonesia (whether established as an Indonesian company or a representative office) are now required to obtain a single business license from the Central Government which serves as a substitute for, inter alia, separate construction and construction service business permits (IUJK). representative office permit (CRO). The Omnibus Law also removes the obligation for construction companies to register their experience or obtain an experience registration certificate, although the Central Government may reintroduce this requirement in future implementing regulations.

In particular, the Omnibus Law transferred licensing authority from MOPW directly to the Central Government itself. Although the significance of this change is not yet clear, it is hoped that implementing regulations will make it clear that permits for the construction industry will be integrated with the Central Government's OSS system.

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<sup>105</sup> <https://binakonstruksi.pu.go.id/informasi-terkini/penting-memahami-uu-cipta-kerja-untuk-perkuatan-sektor-jasa-konstruksi/>

Unfortunately, rumours of significant reforms to simplify the requirements for obtaining a Building Construction Permit (IMB) have yet to make their way into the final version of the Omnibus Law. Therefore, we expect IMB requirements for the energy, resources and infrastructure sectors to remain largely the same, given that the IMB reforms included in the Omnibus Law are mostly limited to apartment and housing developments.

## **2. Procurement of Construction Services**

The Omnibus Law basically revokes the procurement process (tender/ selection/ appointment) for the appointment of construction companies to handle projects financed with state funds. As a result, this procurement procedure now only applies to the designation of a building owner-affiliated construction company for a public service project. These reforms would provide greater flexibility in the appointment of construction companies for projects financed with state funds, and possibly lead to the direct appointment of state-owned construction companies.

Despite these reforms, the Central Government remains in charge of the procurement system for Indonesian construction companies, meaning that more detailed procurement procedures could be provided for in future implementing regulations.

## **3. Foreign Construction Workers**

The Omnibus Law removes all requirements (and related sanctions) in relation to the use of foreign construction workers. Therefore, hiring foreign construction workers in Indonesia is no longer subject to additional restrictions or requirements, so that these workers can be employed in the same way as other foreign workers in Indonesia. However, new sanctions will apply to construction experts (local or foreign) who fail to meet the specified performance standards.



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