

## CONFLICT OF INTEREST PREVENTION STRATEGY IN ERADICATING CORRUPTION IN INDONESIA

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### **Abstract**

*A conflict of interest occurs when personal interests mix with official duties and responsibilities. This can be seen from the conflicts of interest that often occur and are faced by State Administrators, among others, the process of making State Administrators policies that take sides with a party due to influence / close relationship / dependence / gratification; or the tendency to use important State assets and information for personal gain; for example social assistance. In other words, a conflict of interest arises when someone can abuse their position for personal or corporate gain. The aim in this organization is to prevent the occurrence of enforcing conflicts and corruption. Related to this, it is a strategy to prevent conflicts of interest in eradicating corruption in Indonesia. To support this, it is used in data studies in the form of descriptive analysis studies through various literature studies.*

**Keywords:** *conflict of interest, corruption, state officials*

### **Abstrak**

Konflik kepentingan terjadi ketika kepentingan pribadi bercampur dengan tugas dan tanggung jawab resmi. Hal ini bisa dilihat dari konflik kepentingan yang sering terjadi dan dihadapi oleh Penyelenggara Negara antara lain proses pembuatan kebijakan Penyelenggara Negara yang berpihak kepada suatu pihak akibat pengaruh/hubungan dekat/ketergantungan/pemberian gratifikasi; atau tendensi untuk menggunakan asset dan informasi penting Negara untuk kepentingan pribadi; misalnya bansos. Dengan kata lain, konflik kepentingan muncul ketika seseorang dapat menyalahgunakan jabatannya untuk keuntungan pribadi atau korporasi. Tujuan dalam penulisan ini untuk mencegah konflik kepentingan sehingga mengakibatkan terjadinya pelanggaran dan korupsi. Terkait dengan hal itu diperlukan strategi pencegahan konflik kepentingan dalam pemberantasan korupsi di Indonesia. Untuk menunjang penulisan ini menggunakan data berupa kajian literatur yang bersifat analisis deskripsi melalui berbagai kajian kepustakaan.

**Kata kunci :** konflik kepentingan, korupsi, penyelenggara negara

### **Introduction**

Corruption is one of the root causes of development problems in Indonesia. The cause of corruption is quite a lot, but certainly the main source that continues to drive the event is still the rise of conflicts of interest by state organizers (KPK, 2009). Meanwhile, on the other hand, it is noted that the arrangement and control of conflicts of interest are still weak.

The rise of corruption, of course, is accompanied by the presence of conflicts of interest. Conflicts of interest can encourage an Officer to experience conditions where personal considerations effect, dominate, and even

eliminate his or her professionalism in carrying out duties. Such personal considerations can come from the personal interests of themselves, relatives, or groups who then urge or reduce his ideas so that his decisions diverge and have adverse implications on his service to the public (Muh Affan R. Tojeng, 2017). Some forms of conflict of interest that often occur and are faced by the State Organizer include the policy-making process of the State Organizer siding with a party due to influence/close relationship/dependency/gratuity; Tendency to use the State's important assets and

information for personal gain; for example social assistance (bansos).

The impact of conflicts of interest is the rise of corruption committed by government employees. According to the *Global Corruption Barometer Report* (International, 2013), corruption in Indonesia occurs massively and systemically, ranging from public service and financial activities run by the bureaucracy, to ensuring political and judicial institutions.

The actions of State Officials with the position of the leader (*bestuurshandeling*) using the policy regulations (*beleidsregel*) stemming from discretion (*freies ermessen*) that there is an element of abuse of authority and resulting in the loss of the state but there is an element of corruption such as gratuity, bribery can be held criminally accountable especially in the criminal act of corruption (Nurhayati & Gumbira, 2017).

Departing from the above background, it would be interesting to study conflicts of interest. Especially when connected with a conflict of interest with corruption. When talking about conflicts of interest, we must examine the issues related to it, namely that there are already regulations governing conflicts of interest but they are not strong enough to prevent conflicts of interest resulting in violations and corruption in Indonesia. Related to this, what is the strategy for preventing conflicts of interest in eradicating corruption in Indonesia? To answer this, one must use a clear strategy and definite indicators that overcoming the problem of corruption is no longer enough to only punish corruption cases. It is necessary to think about other breakthrough steps so that corruption can be reduced.

## **Research Methods**

The method used in this writing uses literature studies that analyze descriptions through various literature studies in strengthening supported analysis from various sources that have the depth of theories from experts on conflicts of interest. Data collection is done by reviewing libraries relevant to the topic being discussed. Data sources include: literature books, documents, newspapers, magazines, journals, and websites (internet) containing the necessary information.

## **Results and Discussions**

### **Conflict of Interest Relationship with Corruption**

Conceptually, the definition of a conflict of interest in some literature is almost the same. For example, the definition of a conflict of interest according to the Corruption Eradication Commission (KPK) is a situation in which a state organizer who obtains power and authority under the laws and regulations has or is suspected of having a personal interest in any use of his or her authority to affect the quality and performance that should be (KPK, 2009).

The state organizer, in this case, is a person who holds or has the power and authority to perform state functions within the jurisdiction of the state and use a budget that is entirely or in part from the state, such as state officials, public officials, public service organizers and various other terms contained in the legislation.

In terms of regulations, the definition of conflict of interest under Article 1 Paragraph 14 of Law No. 30 of 2014 on Governance Administration, is the condition of government officials who have a personal interest to benefit themselves and/or others in the use of authority to influence the neutrality and quality of decisions and/or actions made and/or performed.

Meanwhile, according to the Organization for Economic Co-operation and Development (OECD), there is a conflict of interest (OECD (Economic Co-operation and Development), 2005) are: "*A conflict of interest involves a conflict between the public duty and the private interest of a public official, in which the official's private-capacity interest could improperly influence the performance of their official duties and responsibilities.*"

Both of these definitions can shed light on what a conflict of interest means. There are two reasons why conflict of interest is concerned and becomes an unethical act (Dwi Budi Sulistiyana, 2016), namely: *First*, influence the public interest or office for personal financial purposes. *Second*, influence decision-making that aims to approve his personal interests. The definition of a conflict of interest varies but generally refers to circumstances in which private interests conflict with official

duties and responsibilities (*formal duties/responsibilities*).

From the above definition, it can be drawn an outline that there are at least 3 (three) preconditions for a conflict of interest, namely; (a) there are actors (government or private parties), (b) there are powers or authorities owned, and (c) there are decisions or actions taken.

Thus, a general conflict of interest is a situation in which a person is in a position of authority and power to accomplish the duties of the company or organization that assigns so that the person has a professional and personal interest in contact. This tangent of interest can make it difficult for the person to carry out his or her duties.

Regarding the root cause of corruption, Jack Bologne (Maslikah, 2012) four important things that influence corruption behavior. *First: Greed*, related to the greed and gluss of the perpetrators of corruption. The corruptor he thinks is a man who is dissatisfied with his circumstances. This stage results in a high urge to always satisfy himself. *Second: Opportuniry*, a system that provides opportunities for corruption. Weak systems that limit the contact between bureaucracy and society in the procurement of goods/services and licensing often make corruption a tradition. *Third: Need*, a mental attitude that never feels enough, is always loaded with needs that never end. It is an internal impulse that allows a person to feel it is important to meet all his or her needs consumptively. *Fourth: Exposes*, the punishment imposed on the perpetrators of corruption has no deterrent effect for the perpetrator and others.

Therefore, corruption is a behavior that involves the abuse of public officials or power for personal gain. Categories of corruption include three types: The category of corruption includes three types: *First: grand corruption*, in which a large number of public resources are stolen and misused by a handful of public officials. *Second: state or regulatory capture* is a public institution with a private advantage by committing acts of collusion. *Third: bureaucratic or petty corruption* that a large number of public officials abuse the power to obtain small bribes (Setiawan et al., 2016).

The above view at least gives rise to the simple conclusion that the causes of corruption internally are influenced by weak government systems and bureaucracy, while externally triggered by the low control system of society (Labolo, 2017).

From the explanation above, namely conflict of interest and corruption, there is a close relationship between conflict of interest behavior and the occurrence of corruption. The OECD expressly states, (Publishing, 2007) are; "*Conflict of interest occurs when an individual or a corporation (either private or governmental) is in a position to exploit his or their own professional or official capacity in some way for personal or corporate benefit*".

This understanding clearly shows a close link between conflicts of interest and corruption. This can be seen from conflicts of interest occurring when personal interests are mixed with official duties and responsibilities. In other words, a conflict of interest arises when a person can abuse his or her position for personal or corporate gain. Conflicts of interest do not always result in corruption, but corruption always requires a conflict of interest. This is because corruption will always be related to power. It is like two sides of the single currency, corruption always accompanies the journey of power and vice versa power is the gateway to corruption (Pitriyantini, 2019).

To regulate the non-occurrence of conflicts of interest in carrying out their functions, generally, the personnel involved in decision making in these activities are required to make a declaration that there is no conflict of interest in the corporation. In addition, it is also necessary to develop/strengthen conflict of interest management regulations to support the development of a culture of integrity in agencies. This approach is taken to encourage behavior not only in accordance with applicable regulations but also to act based on ethical standards set by the institution. The regulated coverage should only cover vulnerable areas at the time of service delivery, implementation of employee duties, human resource management to budget management. This policy can be at the forefront of preventing criminal acts of corruption by managing the potential that could lead to criminal acts (Susilo et al., 2019).

## **Regulations in Indonesia Governing Conflicts of Interest**

In terms of carrying out the program of activities, goods must be followed by regulations as a legal basis that can provide instructions for implementation or implementation to create the implementation of activities as expected by the applicable regulations (Bunga, 2019).

Specific regulations governing conflicts of interest in the form of Laws, Government Regulations Substitute Laws, Presidential Regulations, and Presidential Instructions, are currently not available. Known, the arrangement regarding conflicts of interest is contained in Law No. 31 of 1999 jo. Law No. 20 of 2001 on the Eradication of Corruption Crimes, in article 12i, mentions the prohibition of conflicts of interest but only in the procurement sector of goods and services (Muh Affan R. Tojeng, 2017).

Regarding the Ratification of the United Nations Convention Against Corruption, 2003 has encouraged the government to make arrangements regarding conflicts of interest. This is explained in Article 7 paragraph 4 and Article 8 paragraph 5 of the United Nations Convention Against Corruption (UNCAC). Therefore, Law No. 7 of 2006 on ratification of UNCAC recommends that the government regulate conflicts of interest.

Due to the existence of the KPK as an anti-corruption agency, it is hoped that it can systematically suppress and reduce corruption crimes in Indonesia. With the existence of government regulations and strategies as well as public support in eradicating corruption, it is hoped that the KPK will be ammunition to act and strive effectively in efforts to eradicate corruption. (Badjuri, 2011).

So in 2009, the KPK created a conflict-of-interest guidebook to fill in the lack of literature discussing the issue. In 2012, the Ministry of Utilization of State Apparatus and Bureaucratic Reform legalizes the Regulation of the Minister of Utilization of State Apparatus and Bureaucratic Reform No. 37 of 2012 on General Guidelines for Handling Conflicts of Interest. This regulation is based on Presidential Instruction No. 17/2011 on Prevention and Eradication of Corruption In 2012. Law No. 30 of 2014 on Governance, from Articles 42 to 44

also describes conflicts of interest. The explanation, ranging from what is a conflict of interest, who the perpetrator is, the prohibition of decision-making in various conflict-of-interest situations, sources of conflict of interest, and the right of the public to report cases of conflicts of interest and the time limits of their handling.

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## **Conflict of Interest Prevention and Control Strategy (PPKK)**

That overcoming the problem of corruption is no longer enough to only punish corruption cases. It is necessary to think about other breakthrough steps so that corruption can be reduced, for example through Conflict of Interest Prevention and Control (PPKK). In encouraging efforts to Prevent and Control Conflict of Interest (PPKK), it is important to understand how relationships, causes, and forms of conflicts of interest can occur. This is to identify and understand the conditions or situations that actually occur so that an appropriate conflict of interest prevention policy can be formulated.

Various literature on conflicts of interest states there is several sources of the cause of conflict of interest. sources of conflict of interest can come from sibling or family relationships (horizontal-vertical blood relations), associations (including peers), organizations (including alumni), and organizational/college leaders.

Meanwhile, in Article 43 Paragraph 1 of Law No. 30 of 2014 on Governance Administration, it is also mentioned that conflicts of interest occur when in establishing and making decisions and actions are backgrounded by:

1. The existence of personal and/or business interests;
2. Relationships with relatives and family;

3. Relationships with representatives of the parties involved;
4. Relationships with parties who work and receive salaries from the parties involved;
5. Relationship with parties who provide recommendations to the parties involved;
6. Relationships with other parties that are prohibited by the provisions of laws and regulations.

Meanwhile, according to the Corruption Eradication Commission (KPK, 2009), sources of conflict of interest include:

1. Powers and authorities of State Administrators derived from statutory regulations;
2. Concurrent positions, namely a State Administrator holding two or more public positions so that he is unable to carry out his position professionally, independently, and accountably;
3. Affiliation, namely the relationship that a State Administrator has with certain parties, whether due to blood relations, marital relations or friendship relations which may affect his decision;
4. Gratification, namely giving in a broad sense, namely covering the provision of money, goods, rebates, commissions, interest-free loans, travel tickets, lodging facilities, travel tours, free medical treatment, and other facilities;
5. Weaknesses of the organizational system, namely conditions that become obstacles to achieving the objectives of implementing the authority of state administrators due to the existing rules, structure, and organizational culture;
6. Personal interest (vested interest), namely the wishes/needs of a state administrator regarding something personal in nature.

The above explanation if noted, Article 43 Paragraph 1 of Law No. 30 of 2014 which contains only the categorization of employee personality (vested interest), other relationships (affiliates), and relationships with other parties prohibited by the provisions of the legislation. KPK added that sources of conflict of interest include the "origin" of an Employee's authority, namely the power and authority of the state organizer obtained from the legislation.

Besides, the source can also come from the weaknesses of the organizational system itself.

While according to the Corruption Eradication Commission (KPK, 2009), some forms of conflict of interest that often occur and are faced by state organizers (Government sector employees-additional authors) are among others:

- a. Receiving gratuities or giving/receiving gifts for a decision/position;
- b. Use of position/agency assets for personal/group interests;
- c. Confidential information of position/agency is used for personal/group interests;
- d. Concurrent positions in several institutions/agencies/companies;
- e. Provide special access to certain parties without following the proper procedures;
- f. The supervision process does not follow procedures because of the influence and expectations of the party being supervised;
- g. The appraisal of a qualifying object where the object is the result of the appraiser;
- h. There is an opportunity for abuse of office;
- i. Post-employment (in the form of trading influence, job secrets);
- j. Determine the amount of salary/remuneration yourself;
- k. Moonlighting or outside employment (other work outside of their main job);
- l. Receiving an offer to buy shares from the public,
- m. Use of discretion that abuses authority

Seeing the explanation above, the conflict of interest encourages the transfer of public funds. If you pay close attention, the modes are similar to corruption modes. Therefore, the handling of conflicts of interest is basically done through improvements of values, systems, personalities, and cultures. The basic principles related to these four things (KPK, 2009), are as follows::

1. Prioritizing public interests, including: a) State administrators must pay attention to the general principles of good governance in providing services to the public; b) In making decisions, State Administrators must pay attention to prevailing laws and policies without considering personal gain or without being influenced by personal

- preferences or affiliations with religion, profession, party or politics, ethnicity, and family; c) State administrators may not include the element of personal interest in making decisions and actions that may affect the quality of their decisions. If there is a conflict of interest, the State Administrator may not participate in making official decisions which may be influenced by their personal interests and affiliations; d) State administrators must refrain from personal actions that benefit from 'inside information' or inside information obtained from their position, whereas this information is not open to the public; e) State Administrators may not seek or receive improper benefits which may affect the performance of their duties. State administrators also may not take improper advantage of the position they have previously held, including obtaining certain information in that position when the official concerned is no longer in that position.
2. Creating openness to handling and monitoring conflicts of interest, including
    - a) State administrators must be open to the work they do. This obligation is not only limited to following laws and regulations but also must comply with the values of public services such as being free of interests (disinterestedness), being impartial, and having integrity; b) Personal interests and affiliated relations of State Administrators that can hinder the performance of public duties must be disclosed and declared to be adequately controlled and handled; c) State administrators must prepare mechanisms and procedures for complaints from the public regarding conflicts of interest that occur; d) State administrators must ensure consistency and transparency in the process of resolving or handling conflict of interest situations under the existing legal framework; e) State administrators must be able to provide access to the public to obtain various information related to the use of their authority following existing legal regulations.
  3. Encouraging personal responsibility and exemplary attitude, in the form of:
    - a) State administrators must maintain integrity so that they can become role models for other State Administrators and for the community; b) State administrators must be able to separate private affairs from state administration affairs to avoid conflicts of interest that harm the public interest in the event of a conflict of interest; c) State administrators must be responsible for resolving conflicts of interest that occur; d) State administrators must demonstrate commitment and professionalism in implementing policies for handling conflicts of interest.
  4. Creating and fostering an organizational culture that is intolerant of conflicts of interest, including:
    - a) Formulated and implemented management policies and practices that encourage monitoring and handling of conflicts of interest effectively; b) Creating a climate that encourages State Administrators to disclose and discuss conflicts of interest that occur; c) Creating a culture of open communication, as well as encouraging continuous dialogue on integrity; d) Implementation of ongoing briefings and training to increase understanding of the institution's rules and code of ethics.
- The purpose of the policy of preventing conflicts of interest in the government and private sectors (OECD (Economic Co-operation and Development), 2005), among others: First, to identify various risks related to the integrity of government institutions and employees; Second, to specifically prohibit forms of personal interest that are not acceptable; Third, to make government agencies and their employees understand situations where conflicts of interest can occur; and Fourth, to ensure the implementation of effective procedures in identifying, disclosing, handling and making appropriate decisions on conflicts of interest that occur.
- Therefore, it is necessary to support the success of the Handling of conflicts of interest (KPK, 2009), including:
1. Commitment and Exemplary Leader
- Although the responsibility for knowing conflicts of interest that can occur rests on the shoulders of a State Administrator, however,

public institutions must be responsible for implementing or implementing policies for handling conflicts of interest. This requires commitment and exemplary leaders in handling cases of conflicts of interest. The leaders / superior officers are obliged to use their authority properly by taking into account the interests of the institution, the public interest, the interests of employees, and various other factors. The community is believed to give appreciation to their government and will increase their trust as much as possible (public trust) (Sumahdumin, 2015).

## 2. Participation and Involvement of State Organizers

The implementation of policies to prevent conflicts of interest requires the involvement of State Administrators. State Administrators must be aware of and understand the issue of conflict of interest and must be able to anticipate and prevent conflicts of interest. To encourage the participation and involvement of State Administrators, among others:

- a. Publish a conflict of interest policy;
- b. Periodically remind State Administrators of conflicts of interest policies;
- c. Ensure that rules and procedures are easy to obtain and know;
- d. Provide direction on how to handle conflicts of interest;
- e. Providing consultation assistance and advice to those who do not understand the policies for handling conflicts of interest, including external parties related to or associated with the institution concerned.

## 3. Special Attention to Certain Matters

Special attention needs to be paid to certain things that are considered to have a high risk of causing a conflict of interest situation. The things that need special attention include:

- a. concurrent positions;
- b. Affiliate relationship;
- c. Gratuities;
- d. Additional work;
- e. Inside information;
- f. involvement in the procurement of goods and services;
- g. Family and community demands;
- h. Position in other organizations;

- i. Activities after the completion of the term of office.

## 4. Preventive Measures

Preventive measures can be taken to avoid conflict-of-interest situations. For example, preventive measures related to state organizers in decision making are:

- a. The agenda for the meeting to be held needs to be submitted to the State Officials before the meeting to identify and deal with conflict of interest situations at an early stage;
- b. There is a meeting order that regulates the procedure for withdrawal (recusal) from meeting decisions in which the State Organizer is in a situation of conflict of interest;
- c. These preventive measures will grow in an open organizational culture, where it is possible to discuss issues of conflict of interest freely among employees, employee representatives, and other parties who have concerns about conflicts of interest.

## 5. Conflict of Interest Policy Enforcement

Enforcement of conflict-of-interest policies is not easy. For the policy to run effectively, there needs to be:

- a. Adequate sanctions.
- b. Identification mechanisms to detect violations of existing policies.
- c. Conflict of interest handling instruments that are periodically updated.

## 6. Monitoring and Evaluation

Conflict of interest policies also needs to be monitored and evaluated periodically to keep them effective and relevant to a changing environment. If necessary, the policy can be changed or redeveloped.

A ministry/institution is very important to develop good governance (good governance) that is oriented towards good public services to the community. Current facts indicate that the condition of public services managed by the government is still considered problematic, ranging from services that are difficult to access, convoluted service procedures, unclear fees, and the occurrence of illegal levies.

In addition to receiving complaints of problems/irregularities from outside the institution, namely from customers (communities), a complaint can also come from the

internal institution. Whistleblowers from internal agencies are known as whistleblowers. Currently, many ministries/institutions and SOEs adopt whistleblowing system (WBS) as part of efforts to combat fraud and corruption in their institutions. Whistleblowing system is a system that can be used as a medium for whistleblower witnesses to convey information about the acts of irregularities indicated to occur within an organization. The whistleblower may come from management, employees of an organization, or other parties who have interactions with the organization's devices (Isra & Hiariej, 2009)

In principle, there are 3 (three) alternative mechanisms for WBS (Isra & Hiariej, 2009), namely; *First*, the mechanism is *anonymous*, when the reporter does not need to show their identity so that the confidentiality of the reporter is truly protected. *Second*, the mechanism is *confidential*, when the reporter must mention his/her identity, but the authorized party has a mechanism to ensure that the information from the reporter is not leaked. *Third*, the mechanism is *open*, when the reporter openly must convey his / her identity.

In WBS, maintaining the confidentiality of the whistleblower and the protection of him is very important, and it is as important as the report he is responding to. Besides, the work unit established and carrying out the duties of handling complaints from the public and internal agencies, as well as being a working unit that handles the mechanism of declaration (disclosure) of conflicts of interest carried out by employees whose information is correct and always updated, ranging from disclosure or disclosure when there is an appointment or occupying a new position, further disclosure while undergoing work in the office (when there is a change of conditions after disclosure and initial statement), and disclosures containing detailed information about potential conflicts of interest.

## Conclusion

Indonesia has conflict-of-interest rules but is not strong enough to prevent conflicts of interest. Therefore, it is necessary to prevent and control conflicts of interest (PPKK) by strengthening corruption eradication institutions to prevent conflicts of interest. To regulate

the absence of conflicts of interest in carrying out their functions, generally, personnel involved in decision making in such activities are required to make declaration statements of no conflict of interest, to build awareness at the level of state maintenance as well as strengthening systems that support implementation at the level of public institutions. In the long run, conflict-of-interest arrangements are part of the push to prevent violations and corruption in Indonesia.

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