

Culture of Abuse of Power Due to Conflict of Interest to Corruption for Too Long on The Management form Resources of Oil and Gas in Indonesia

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Abstract: This research is a culture of abuse of power due to conflicts of interest so that corruption takes too long to manage oil and natural gas resources in Indonesia in managing oil and natural gas resources in Indonesia. The problem of this research is that the Indonesian state is equipped with abundant natural resources, including oil and natural gas resources. According to Article 33 of the 1945 Constitution, the oil and natural gas resources should be controlled by the state for the greatest prosperity of the people. In fact, the Indonesian people are not prosperous despite the abundance of oil and natural gas resources. Historical research methods. With the concept of cultural criminology. The results of research since the independence of the Republic of Indonesia have occurred abuse of power due to conflicts of interest to maintain power in the management of oil and gas with corruption impacting state losses, especially the suffering of the Indonesian people for too long, so that a culture of corruption is formed. This happens first; the sudden change component, caused by global changes and the modernization of the tendency of society to comply with materialism and consumerism while ignoring the cultural values of shame in the life of the nation and state. that is not trustworthy towards people's trust. This renewal of research re-shames cultural morality and limits the extent of power that

Keywords: Culture of Abuse of Power, Conflict of Interest, Corruption, Management of Resources of Oil and Gas, Indonesia.

1. INTRODUCTION

In the first decade of Indonesia since its independence, The First Vice President of Indonesia, Mr. Hatta (Lubis and Scott, 1985: ix), asserted that corruption has become a culture for some Indonesian. According to Zimring and Johnson (2000 and Brasz (1985) that there is a relationship between power (authority) and corruption. Brass, for instance, asserted that the corruption (abuse of power) used silently by authorities based on the authorities embedded in their official position, which inflict a financial loss of the organization. They rationalized that their official position and its decision is legal (Brasz, 1985). Historically, according to historian Ong Hok Ham, the Javanese Rulers (during the colonial era) did not separate their official properties as rulers with their private ownership (1985).

Abuse of power as a public official to make public policy is only seen as procedural and administrative errors, but if it is done with the aim of benefiting yourself or others or corporations that result in economic losses and state finance, then in fact it is a

behaviour of social deviation and white-collar crime behaviour, as regulated in Law Number 31 of 1999, which has been amended by Law Number 20 of 2001 on the Eradication of Corruption.

The implementation of public officials should be based on the principle of legality, the principle of protection of human rights, especially in this case the principle of not abusing power and authority. The principle of prohibiting the abuse of power and authority is regulated in Article 10 paragraph (1) letter e of Law Number 30 of 2014 on State Administration. This principle requires every government agency and / or official not to use its authority for personal or other interests and is not in accordance with the purpose of granting such authority, not to exceed, not to abuse, and / or not to confuse authority. And, the provisions of Article 17, that government bodies and / or officials are prohibited from abusing authority. The prohibition includes a prohibition to exceed the authority, a prohibition on confusing authority, and / or prohibition to act arbitrarily.

Abuse of power and authority carried out by government officials should not be examined through a criminal process because in accordance with Law Number 30 of 2014 as long as the abuse of authority does not contain an element of criminal conduct, it is an administrative domain whose settlement is carried out by the official's supervisor and the sanction against

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officials who have been proven to have misused authority in the form of revocation of authority, sanction of reprimand or dismissal

Regarding legal implications of abuse of power to the administration of public officials that harm state finances, the opinion of Philipus M Hadjon (2011:11), administrative law is known as the term of authority, which is aligned with the term "*bevoegdheid*". The difference between authority and the term of *bevoegdheid* is that they are used both in the concept of public law and private law, whereas in Indonesia it is always used in the concept of public law that the use of authority is intended to control the behaviour of legal subjects. Authority must have the legitimacy and conformity of the law, containing interpretation of authority standards, namely general standards and special standards.

Of the abuse of power or unreasonableness, both of which are the main parameters of whether there is a deviation in the use of government authority, of course, in addition to the principles of other administrative law. In the event that there is an element of abuse of authority and arbitrariness, then there is an element of maladministration and of course there is an element of unlawful conduct, and the act becomes the personal responsibility of the official who commits it. Abuse of power is broader in understanding than unreasonableness, but in the study of administrative law both are necessary to determine the presence or absence of corruption, collusion, and nepotism of public officials

The aforementioned statutory regulations have occurred conflict (conflict norm) after the enactment of Law Number 30 of 2014 on Government Administration, namely Article 17 to Article 21 which regulates the prohibition on the abuse of power and authority by Government Agencies and/or Officials as well as granting authority to the Government Internal Oversight Apparatus and the State Administrative Court to conduct supervision and testing regarding whether or not there is an element of abuse of power and authority carried out by Government Officials. Meanwhile, previously there were provisions in Article 3 of Law Number 31 of 1999 on Eradication of Corruption, as amended by Law Number 20 of 2001 on Eradicating Corruption in conjunction with Article 5 and Article 6 of Law Number 46 of 2009 on Corruption Criminal Court, which one of the elements regulates

Corruption due to abuse of power, where absolute competence to examine the problem is given to the Corruption Court.

A conflict of interest occurs when the responsibilities of bureaucrats, executives and legislators as public officials clash with their personal and party economic affairs. In a narrow sense, a conflict of interest refers to an environment where a politician uses his position or position in government, either openly or secretly, to gain personal financial gain. Conflicts of interest between public duties and personal interests have been the cause of many scandals involving public officials with very serious consequences.

Conflict of interest contains three important elements. First, there are economic and financial interests of individuals and their parties, and this can happen to other types of interests, for example, guaranteeing benefits for family members. Basically, there is nothing wrong in pursuing personal interests. The problem arises when these personal interests conflict with the second element, namely, "public duties / responsibilities".

The abuse of power on natural resources in Indonesia has generally been cast as a simple matter of power and patronage. This study is that these abuses reflect deeper and much more surprising circumstances. First, the motive is as much the desire to pursue particular development strategies as it is to maximize political power or wealth. Second, the abuse occurs because of disunity within the Indonesian government. Natural-resource manipulations have proven to be an easy way for the Presidency to prevent this disunity from imposing political costs on the state.

2. PROBLEMS OF THIS RESEARCH

- a) The culture of abuse of power on the oil and gas business in Indonesia keeps a dark path, in this region, the actors want personal gain illegally by accepting bribes from all permits in this sector, thus harming the country. This proves that oil and gas business has been running for a long time as a "dairy cow" by a group of people, bureaucrats or certain corporations who are moral in kleptocrats.
- b) Abuse of power by the government reform era is to form the oil and gas Law to dominate foreign oil and gas companies in Indonesia, namely the

country's limitations in managing oil and gas resources in its own fields. And giving wide opportunities for foreign oil and gas companies to plunder oil and gas reserves throughout Indonesia, as well as legalizing selling their own oil and gas for domestic needs, following international prices. This raises problems that are detrimental to the state. "In an organized manner. So that the Oil and Gas Law is not in accordance with the State Constitution giving as much as possible for the welfare of the people.

3. RESEARCH METHODS

Ethnographic research and participant observation are very difficult to distinguish. Both draw attention to the fact that the participant observer / ethnographer immerses himself in the group for a long time, observes behavior, listens to what is said in good conversations between others and with field workers, and asks questions (Alan Bryman, 2003:441). It is possible that the term 'ethnography' is sometimes preferred because 'participant observation' is an implicit meaning of observation. Although in practice, participant observers do more than just observe. Typically, participant observers and ethnographers will collect further data through interviews and document collection.

Therefore, a clear emphasis on observations in the term 'participant observation' means that terms that appear to be more inclusive would be preferred, although in reality it is generally recognized that this method requires a variety of data collection methods and related sources (Alan Bryman, 2003:445). Ethnography is sometimes also taken to refer to a study in which participant observation is a common research method but it also has a special focus on the culture of the group in which ethnographies are immersed. However, the term 'ethnography' has an additional meaning, in the sense that it often refers simultaneously to the research methods of the types described above and the written products of the research. In general, 'ethnography' often refers to the research process and the written results of the research (Earl R. Babbie 2015:336).

According to (Topo Santoso and Eva 2013:12) Subcultural theories (subculture theories) are a subdivision in a dominant culture that has its own norms, beliefs and values. Subculture usually arises when people in similar circumstances find themselves

separated from the biggest stream of society and tie themselves together to support one another

According to Sudirman Said, Minister of Energy and Mineral Resources of the Republic of Indonesia, on May 20, 2015, emphasized that the oil and gas sector was still covered by a culture of abuse of power so that it was corrupt, learning from the past, this sector was covered by a culture of corruption and quite close and we should not be ashamed to admit that.

4. DISCUSSION

Power in Indonesia is in the hands of politicians who are in the bureaucrats, executive and legislative and even the judiciary. They get that power through political party channels. The founders and administrators of the political parties as a political broker have the tendency to receive some funds to be able to pass a prospective politician in the bureaucrats, executives and parliament through an election contestant. Or else, they get a position in a strategic position in a state-owned enterprise to be able to influence a regulatory policy that tends to benefit the political broker, so they can be said to be in corruption, collusion and nepotism.

The holders of power in the history of human civilization are to hold a power, determining a situation and condition, and the morality of politicians as public officials determines control social. The morality of the politicians holding the power develops for the sake of personal interests and groups in a system, it will have an impact of conflicts of interest.

After independence on August 17, 1945, oil and natural gas resources became the mainstay of economic recovery. In 1951, the income per capita of the population was only 28.3 guilders, whereas during the period of Dutch imperialism it reached 30 guilders in 1930. Then, in 1950-57, the budget deficit boosted inflation by 17%, while the GDP ratio was only 8.7%. (Andar Nubowo 2011:39). In this period the management of oil and gas began with a concession system according to Dutch inheritance rules

The concession system is to allow foreign contractor companies to explore oil and gas freely and the contractor is only required to pay royalties to the state. This pattern is a state loss can not be assessed from the results of oil and gas resource production, which is the right of the nation and state of Indonesia.

Over time the Dutch surrendered and sovereignty was in the hands of Indonesia, in 1957, there was a rebellion between the professional army and the army of Pakistan in the regions. It was then that Ibnu Sutowo was ordered by army chief of staff Major General Abdul Haris Nasution to quell the rebellion, including the army of oil workers who controlled the oil and gas mines (Iswantoro 2014:40). After the oil and gas fields were controlled by the army, the Kasad appointed Ibnu Sutowo who was responsible for the oil and gas mining.

Ibnu Sutowo abolished the concession system, aiming to eliminate foreign "domination" in the oil business, with a production sharing contract (PSC) system. A foreign company is only a contractor in a national oil and gas company. He opened the faucet as wide as possible to foreign investors to develop his business in Indonesia. so Ibnu Sutowo invited businessmen from Japan, Kobayashi Group to invest in oil and gas business in Indonesia, the North Sumatra Oil Development Corporation Co. Ltd was formed with an investment of 8,845,000 million yen, equivalent to US \$ 53 million, in the form of mining equipment and machinery. (Iswantoro 2014:62).

In 1960 President Sukarno issued regulation No. 44 of 1960 governing profit sharing agreement (PSA) with a share of 60:40 for Indonesia and foreign investors. In addition, the regulation also stipulates the obligation for foreign oil and gas corporations to surrender 50% of their industrial area to Indonesia after operating for five and ten years.

This contra-work system is a contract or profit sharing, the management of oil and gas resources is managed by the contractor and the revenue sharing here is oil production, and state revenue will get the value of funds from the sale of oil and gas minimum 20% of 60%. In this case the state loss is 80% of 60% of the sales value, because the national oil company does not yet have transparency management to the public.

In May 1965 a company was established to carry out oil trading to Japan, namely Far East Oil Trading Co. Ltd. the composition of ownership is 50 percent owned by Indonesia through Pertamina and 50 percent owned by Japan through 21 Japanese industrial companies. And the president director is Ibnu Sutowo, Indonesia's oil exports to Japan are increasing. (Sukusen, at.all. 2018:62)

Likewise, Indonesia's economic growth increased significantly from oil and gas export revenues from 23% to 26%. And Indonesia can declare as an oil and gas exporting country and be eligible to join the OPEC organization (Andar Nubowo 2011:54). The economic success of the oil and gas regulation did not make the Indonesian people prosperous because the abuse of power at that time carried out corruption, collusion, nepotism for oil and gas business for military and bureaucratic projects. The state budget for the military is 31% to 40%, while the budget for the welfare of the people is below 10% of the total state budget.

The abuse of power due to conflict of interests for President Soekarno's politics so that corruption of the oil and gas business period 1960 to 1965 resulted in the collapse of an economic foundation with a gross domestic product (GDP) of 5% to -5%. This caused a political upheaval, and a coup of the September 30, 1965 movement by the Indonesian Communist Party (G30S / PKI) resulted in President Soekarno stepping down from power.

In 1968 the government was led by President Soeharto, knowing oil and gas as an abundant source of funds and maintaining his power, for reasons of efficiency, the government issued Government Regulation No. 27 of 1968 concerning National Oil and Gas Mining (Pertamina). As a consequence of a national oil company a merger between Permina and Pertamina became one, namely PN Pertamina to run businesses ranging from exploitation, refining and processing, transportation, and marketing of oil and gas, led by Ibnu Sutowo as the first managing director.

The Oil Boom in the 1970s supported President Soeharto's government projects, the oil and gas sector contributed 80% of exports and 70% contributed to state revenues. So that Indonesia is known as the "Asian Tiger." Oil and gas exports in 1975 by 58%, in 1980 by 69%, in 1985 by 58%, then decreased from year to year since 1990 by 34%, in 2002 by 10.64%, in 2005 by 8, 31%, in 2006 it was 7.77%. (Andar Nubowo 2011:67).

The issue of corruption by Ibnu Sutowo is having shares in the Far East Oil Trading Company which carries out Indonesian oil exports to Japan as well as having Tugu Insurance business shares domiciled in Hong Kong, as well as buying tanker ships using intermediaries to incur state losses. In the practice of managing oil and gas resources in the field of the production sharing contract (PSC) system between

national companies and contractors 65% and 35%. (Iswantoro 2014:65). So that the PSC system does not pay attention to lower class mining workers, as well as the results of national oil and gas resources not intended for the welfare of the people of Indonesia, but intended for militarization power can also be called a military-state capitalist. In this case Ibnu Sutowo had abused power because of a conflict of interest, his personal or group business uses

Corruption by Ibnu Sutowo, while supporting Pertamina's president director, supported the growth of the oil services sector, by way of; A. Establish a joint partnership between Pertamina and foreign entrepreneurs that produce mining and production equipment; b. Bringing foreign oil and gas companies to exploit oil and gas resources for personal gain. In addition, Ibnu Sutowo provided loans to the United States for personal-business interests and colleagues supported by the army to give bribes to President Soeharto%. (Iswantoro 2014:111)

The success of Ibnu Sutowo in developing the oil and gas business in Indonesia at that time made the national oil company very large, but on the other hand, it was strong that caused Pertamina to be out of control. So that the state in the country and the thick corruption, collusion, nepotism carried out by Ibnu Sutowo. This situation resulted in the government, in this case President Soeharto, issuing regulations in the form of Law Number 8 of 1971 concerning the State National Oil and Gas Mining Company (Pertamina Law). The company is engaged in the business of oil and gas which includes exploration, exploitation, refining and processing, transportation and sales. With the approval of the President, business sectors can be expanded, as long as there is a relationship with oil and gas exploitation and is based on the company's budget, annual work plan and company investment plan.

Robert Klitgaard (1988) once warned that illicit behavior develops when the actor has monopoly power over the client, when the perpetrator has unlimited discretion, and when the accountability of the actor to the leader is weak. It has the same thing: corruption is the same as monopoly plus discretion, minus accountability. The condition is almost like what is happening in this country now.

This Pertamina Law gives even greater losses to the state because the state has authorized Pertamina as a supporting company, as an instrument of abuse of

power to commit corruption. And the contract sharing procedure (KPS) resulted in a more significant national loss due to the difficulty of the government in the activities of foreign contractors both in the upstream and downstream fields and the manipulation of production data in the field.

In addition, abuse of power by Ibnu Sutowo grants oil and gas management licenses including the monopoly on purchasing Pertamina's crude oil against foreign International Oil Company (IOC) companies, thus harming the state, by abusing power within Pertamina's management and government circles for personal and group interests. Phenomenally, the lifestyle of the President Director at that time had a very fantastic car (Roll Royce). Pertamina at that time was successful and developed rapidly, but did not have good corporate governance, so that the actors of corruption, collusion, nepotism to influence the management of oil and gas for personal interests and close relatives were unavoidable, resulting in state losses. In this case the corrupt actor sells crude oil through Ibnu Sutowo's company is Far East Oil Trading which was founded in 1965 in Japan and Perta Group was founded in 1973 in Singapore (Sukusen, 2018: 101).

Over time, abuse of power due to conflicts of interest for Ibnu Sutow's personal business, so that corruption, collusion, nepotism of the oil and gas business continues, in 1978 Ibnu Sutowo as owner of Perta Group attracted families of the new order ruling circle so that it turned into Perta Group Oil Marketing Limited (POML) is domiciled in Singapore. POML is a partnership between Pertamina and a number of US companies for marketing oil and gas production in America. Pertamina has fully acquired the name change to PT. Pertamina Energy Trading Ltd. (PETRAL). The composition of Pertamina's share ownership is 40%, Tommy Soeharto's share is 20%, Bob Hasan is 20% and Pertamina Employee Foundation's shares are 20% (Tommy Soeharto Once Owned Petral Shares 2020).

Pertamina in the Peit Haryono era, as the company's second president director, formed the Perta Oil Marketing (POML) from the trade in oil and gas resources in Pertamina's body. After the crisis in 1974/1975, to improve marketing governance more effectively and efficiently and to eliminate the appearance of corruption, collusion, nepotism that occurred in the period 1969-1978, then in 1978 the Perta Group mager became the Perta Oil Marketing

Limited (POML) domiciled in Hong Kong (Hutapea 2012:8). The crime of abuse of power committed by Peit Haryono was a conflict of interest because at first the Perta Group was established in Singapore, but after being magically a POML domiciled in Hong Kong. The changes that occur are thick with the power of military power, slowly its role will be replaced by the crimes of the inner circle and family business associated with the power of President Suharto's power.

The success of Pertamina with the oil boom in the era of President Soeharto, made the perpetrators of a culture of abuse of power against conflicts of personal interests, the president's family, resulting in state losses. The power at that time carried out corruption, collusion, nepotism for the purpose of suppressing pro-democracy, nationalist, secularist groups, kidnapping and even murder Malari 1974 and May 1998. Because the people were continually silenced and treated unfairly, then in May 1998 the power of the new order ended.

The end of the new order of oil and gas production decreased by 35%, while domestic oil consumption increased by 1.2 million barrels per day. So that the country becomes an oil importer. Whereas at that time the price of petroleum rose to US \$ 100 per barrel (Andar Nubowo 2011:115). The state budget for subsidies for fuel oil also increased significantly. So that at the beginning of the reform era, Indonesia experienced an economic crisis and needed funds to restore the economy through loans from other countries or world banks.

The International Monetary Fund (IMF) is willing to provide loans to Indonesia if it meets the proposed requirements, one of which is to liberalize the oil and gas business in the form of regulations. The government agreed to the conditions in the form of a Letter of Intent, so that the state would receive a debt of US \$ 45 billion. Over time, the government issued regulations in the form of Law No. 22/2001 concerning Oil and Gas with the change in regulation the Pertamina Law no longer applies. The Oil and Gas Law has brought big changes in both the upstream and downstream sectors. Among them are changing the monopoly system towards a competition system, liberalizing fuel prices, creating a new body, namely an implementing agency and a regulatory body that has replaced Pertamina's functions and roles so far.

Since the entry into force of the Oil and Gas Law, the production sharing contract (PSC) system that has been applied since the era of Ibnu Sutowo to the Pertamina Law and used by Pertamina to foreign oil and gas companies and is a characteristic of the Indonesian oil and gas business. Once this system is copied and implemented by many other countries, such as Egypt, Libya, Algiers, African countries, Asia, the Middle East, South America, North America, and other countries producing oil and gas. At present the management of oil and natural gas resources in Indonesia the PSC system is no longer valid so that the country is severely disadvantaged and loses its national identity to develop its own country through the management of its natural resources.

The perpetrators of the culture of abuse of power so as to carry out a culture of corruption which is detrimental to the state in the management ranks of the management of oil and gas resources, also occurred in the sale of Pertamina's Very Large Crude Carrier tanker is Laksamana Sukardi, ex. President Commissioner; Alfre H Rohimone, former Finance Director and Arifi Nawawi, ex. President Director (Tempo.co. 2007:32). Karen's actions enriched the Australian Roc Oil Company Limited (ROC). For this action, the state also suffered a loss of Rp. 568 billion.

The culture of abuse of power so as to corrupt the management of oil and gas resources which is very detrimental to the state is Soetan Bhatogana from member of the commission 7 of the Indonesian House of Representatives, Jero Wacik, former Minister of Mineral Resources, Waryono Karno, Secretary General of the Ministry of Energy and Rudi Rubiandini. Karen Agustawan, proven guilty of enriching foreign oil and gas companies Roc Oil Company Ltd. so the country suffered a loss of Rp. 568 billion. And Karen was sentenced to eight years in prison of a fine of Rp 1 billion (Faiq Hidayat 2019).

Likewise, the culture of abuse of power due to conflicts of interest has led to corruption by the president director of Pertamina Energy Service Pte. Ltd. Bambang Irianto, valued at US \$ 2.9 million, through an overseas bank account in the case of bribery in the tender of crude oil and refineries thereby benefiting Kernel Oil as a supplier. And in the Bambang Irianto trial, it was explained that there was a mafia in the oil and gas trade, so that KPK investigators conducted an investment audit to find a state loss of US \$ 18 billion or equivalent to Rp 250 trillion in the period 2012 to 2014 (Tempo Magazine 2019).

The results of the forensic audit also explained that power actors were carrying out a culture of abuse of power for their personal and group interests, thus corrupting a number of Pertamina oil partners affiliated with the same oil and gas mafia network to take advantage of the best price and a discount of US \$ 1.3 per barrel to US \$ 30 cents. per barrel, and the corruption eradication commission made a statement until 2014 corruption in the oil and gas sector, the country suffered a total loss of 346 trillion. According to president Joko Widodo, said the state loss caused by the oil and gas mafia in Indonesia said the state loss was one trillion rupiah per month and the president's statement was in line with the opinion of Achmad Syafii Maarif, former Chairman of the Muhammadiyah Central Center (Anang Sulistiyono, *et al.* 2017).

5. CONCLUSION

Conflict of interest colours the behaviour of public officials, for the personal, group and party interests. Therefore, public officials rationalize the abuse of power to carry out white-collar crime, in carrying out the powers that are given the authority of the people, by the following methods: First, the establishment of laws and regulations which are only personal interests and certain business groups so as to harm the country. Second, making and ratifying the state budget of the state every year. There is a tendency for social deviations and does not pay attention to the welfare of the people.

Anatomy of the culture of abuse of power, impacting acts of corruption are no longer seen as something that is prohibited by law and religion. The public response to the culture of abuse of power is a continuum, from those who don't care to the people who hate it. But it seems that they do not care anymore, because it is proven that the community is less enthusiastic in fighting the culture of abuse of power, it might assume that the impact is not immediately felt by the people. This means that the culture of abuse of power is accepted by society as something that cannot be denied. There is greed from bureaucrats, executives and legislators and even law enforcers who want to take advantage of opportunities for corruption, collusion, nepotism for their own and their group's interests.

Politicians in the bureaucrats, the executive and the legislative and even the judiciary as public officials try to take advantage of the opportunities and power available to them to commit corruption, collusion,

nepotism. Starting from the concept of tribute as an instrument of the continuity of the hierarchical relationship between the authorities and the community as a sense or form of devotion, there is a change in meaning from the word of tribute which was originally a form of resignation, then modified into bribery, meaning that bribery occurred commercialization of positions and manipulation of power for personal interests or group. There is a need to maintain and increase power that requires high costs, so that the culture of abuse of power becomes a necessity.

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