

Trends of Criminal Investigation Against Corruption in State-Owned Enterprises in 2016–2021



Indonesia Corruption Watch
2022

Trends of Criminal Investigation Against Corruption in State-Owned Enterprises in 2016–2021



Indonesia Corruption Watch
2022

Trends of Criminal Investigation Against Corruption in State-Owned Enterprises in 2016–2021

Penyusun:

Egi Primayogha

Yassar Aulia

Indonesia Corruption Watch

Jl. Kalibata Timur IV/D No. 6, Jakarta Selatan, DKI Jakarta

Indonesia, 12740

icw@antikorupsi.org

Jakarta, Maret 2022



Contents

Introduction	5
Data Collection and Study Boundary	9
Tren of Criminal Investigation into Corruption Cases in SOE Environment: Substantial State Losses	11
Corruption in SOE Environment: Continuously Pervasive Despite the Pandemic	15
Distribution of Actors, Sectors, and Methods of Corruption in SOE Environment	16
Conclusion and Recommendations	24

List of Abbreviations

APBN	Anggaran Pendapatan dan Belanja Negara/ State Revenue and Expenditure Budget
BPK	Badan Pemeriksa Keuangan/Audit Board of Indonesia
BPKP	Badan Pengawas Keuangan Pembangunan/ Finance Development Comptroller
BUMN / SOE	Badan Usaha Milik Negara/State-Owned Enterprise
ICW	Indonesia Corruption Watch
KPK	Komisi Pemberantasan Korupsi/Anti-Corruption Commission
OECD	Organisation for Economic Co-operation and Development
OJK/FSA	Otoritas Jasa Keuangan/Financial Services Authority
PDB / GDP	Produk Domestik Bruto/Gross Domestic Product
PEN	Pemulihan Ekonomi Nasional/National Economic Recovery
PLN	Perusahaan Listrik Negara/National power company
PMN	Penanaman Modal Negara/State Equity Participation
RRT / PRC	Republik Rakyat Tiongkok/People's Republic of China



Introduction

Conceptually, State-Owned Enterprises (SOEs) are companies that to some extent are owned and controlled by the government. An SOE may have different legal arrangements. According to the Organisation for Economic Co-operation and Development (OECD), SOEs can be identified based on several parameters, among others:¹ majority or minority ownership by the government; the SOE's status as a listed, or non-listed, company in a stock exchange; government's equity ownership through instruments such as public pension fund, asset under management, company restructuring, and development loans; or, instead of equity ownership, the SOE's exclusive rights afforded by the government.

SOEs are present worldwide. The number of these entities in a single country may even reach the thousands (the PRC, Germany, Italy, Russia, Sweden, and Ukraine).² While SOEs have significant distinguishing features, they also share common characteristics—other than public ownership—that set them apart from private sector entities, namely their public service mandate and/or societal welfare objectives that are inherent in their roles and functions.³ Unfortunately, SOEs, as

1 Organisation for Economic Co-operation and Development, *OECD Guidelines on Corporate Governance of State-Owned Enterprises* (Paris: OECD Publishing), 2005, pg. 11.

2 International Monetary Fund, Fiscal Affairs Dept., "Chapter 3—State-Owned Enterprises: The Other Government," dalam International Monetary Fund, Fiscal Dept., *Fiscal Monitor*, April 2020, pg. 48, accessed from <https://www.elibrary.imf.org/view/books/089/28929-978153537511-en/ch03.xml>

3 PricewaterhouseCoopers, "State-Owned Enterprises: Catalysts for public value creation?", 2015, pg. 6, accessed from <https://www.pwc.com/gx/en/pwrc/publications/assets/pwc-state-owned-enterprise-pwrc.pdf>.

part of the public sector, are also vulnerable to maladministration and corruption. Moreover, the appointment of SOE's high-level officials often has the tendencies of accommodating political barter, with allegations that some SOEs are established only to facilitate corruption.⁴

In Indonesia, SOEs are given the constitutional mandate to control sectors that fundamentally affect the lives of the people in the country. The mandate stems from the notion that public welfare should not be governed by the mechanism of a free market. Indeed, SOEs hold dual responsibilities: to ensure the people's welfare (in its capacity as the extension of the state) and to generate profits (in its capacity as a business entity). Indonesian SOEs can be found engaged in a variety of sectors: warehousing and transportation, water supply, mining and quarrying, power and gas, and forestry and fishery to name a few examples.

SOEs enjoy special treatment from the Indonesian government, such as market monopoly that is given to PT PLN as the country's sole power company, or state budget-funded equity participation through various schemes. Despite all that, SOEs have largely failed in exercising their many mandates.⁵ In short, their performance is far from satisfactory. Poor governance due to their bureaucratic structure and corruption within SOEs are some of the driving contributors to this problem.

In one of our critical assessments on SOEs, Indonesia Corruption Watch (ICW) highlighted that in general, as of the end of 2020, most SOEs were punching below their weight.⁶ The total assets of all SOEs in Indonesia amounted to nearly Rp8,000 trillion, but their profits combined stood at merely Rp150 trillion. The figures showed a relatively low return on assets at below two percent. Moreover, there are many problematic SOEs. Of the total 107 entities, only a handful of them demonstrate sound financial footing and robust performance. This is evidenced by the fact that there are just around 18 SOEs that regularly contribute to the state's coffers through dividends and drive the people's economy. Meanwhile, every year, SOEs receive funds allocated from the state budget (APBN) through the state's

4 Maria Rodrigo, "State Owned Enterprises: A Major Crisis in the Making," 2022, accessed from <https://groundviews.org/2022/01/03/state-owned-enterprises-a-major-crisis-in-the-making/>

5 See, for example, Josephin Mareta, "Prinsip Konstitusi Ekonomi dalam Privatisasi Badan Usaha Milik Negara" (The Principles of Economic Constitution and the Privatization of State-Owned Enterprises), *Jurnal Konstitusi*, Vol. 15, No. 1, 2018, pg. 118.

6 Indonesia Corruption Watch, "Catatan Kritis: Kebijakan Pemulihan Ekonomi Nasional untuk BUMN" (A Critical Perspective: National Economic Recovery Policy for SOEs), 2021, pg. 19, accessed from <https://www.antikorupsi.org/sites/default/files/dokumen/Catatan%20Kritis%20kebijakan%20Pemulihan%20Ekonomi%20Nasional.pdf>.

equity participation (PMN) scheme. In 2021, according to the APBN bill, the state channeled Rp37.38 trillion to SOEs using PMN.⁷

Aside from SOEs' low contribution to the state's finances, there are also many SOEs that get tangled in corruption. The Anti-Corruption Commission (KPK) data noted 64 cases of corruption in Indonesian SOEs from 2015 to 2020.⁸ It was in early 2020 that the mega scandal that involved PT Asuransi Jiwasraya Tbk (Persero) broke out—the case immediately swept public attention and is still a topic of debate until today. At the time, the Audit Board of Indonesia (BPK) found potential state losses of up to Rp17 trillion because of embezzlement committed by this SOE. In July the same year, the KPK found another SOE, PT Waskita Karya (Persero), also committed corruption by having fictitious contracts among the construction company's projects. There were at least 41 fictitious sub-contracts in 14 projects in the span of 2009-2015. The estimated state loss was Rp202 billion.

A study conducted by a group of economists found that inefficiency and the high rate of corruption in SOEs adversely affect the economy and income level, including loss of jobs that lead to a higher risk of people falling into poverty.⁹ The study also emphasizes these effects on low-skilled workers. Using an economic model that the researchers developed, it is indicated that SOEs' poor performance and their proneness for corruption may affect the Gross Domestic Product (GDP) and result in lower investments in the long term, which will in turn negatively impact industry sectors that rely on investments and domestic consumption.¹⁰ In conclusion, the study suggests that these problems will eventually cause a severe blow to the unemployment rate.

Given this situation, ICW issues this Trends on the Investigation and Prosecution of Corruption Cases in SOEs. This study inquires into corruption cases within SOEs that were investigated by Indonesian law enforcement authorities in the period of 2016-2021. This study also aims to map out the areas in SOEs that are most vulnerable to corruption. More than that, this study departs from the assumption that corruption remains as the key obstacle to the ambition of establishing SOEs as entities with two main mandates—public service and state revenue generators—

7 Alfian Setya Saputra, MediaBUMN, "Modal BUMN di Tahun 2021 Dijatah Rp37,38 Triliun" (SOE's Capital in 2021 Capped at Rp37.38 Trillion), 2020, accessed from <https://mediabumn.com/modal-bumn-di-tahun-2021/>.

8 Ibid., pg. 5.

9 Margaret Chitiga-Mabugu et.al., "Corruption in state-owned companies hurts low skilled workers the most: we show how," 2021, accessed from <https://theconversation.com/corruption-in-state-owned-companies-hurts-low-skilled-workers-the-most-we-show-how-165420>.

10 See Margaret Chitiga-Mabugu, et.al., "The implications of deteriorating state-owned enterprise performance on the South African economy," *Annals of Public and Cooperative Economics*, 1-24, 2021, pg. 22.

and that corruption prevents SOEs from realizing its ideals. This study hopes to inform the decision-making by the management of SOEs and the government, especially decisions that are necessary to eliminate the tentacles of corruption. By mapping corruption cases in SOEs, we are able to, among others, identify the methods of operations that are frequently employed by those who commit corruption, the actors associated with corruption, and the amount of state losses caused by the crime that can be used to inform corruption prevention strategies.



Data Collection and Study Boundary

In this study, ICW listed cases of corruption within SOEs between January 2016 and December 2021. The inclusion criteria are cases that have progressed into investigation phase¹¹ and where suspects have been named by law enforcement authorities. The cases that do not meet these criteria are excluded from the study. The timing of when suspects were determined was also used to group the cases by “year”. Considering that the data collected refer to the timeline of investigation, the actual time of when the act of corruption occurred may not always correspond to the years that we identified as our research period. It is possible that a crime took place many years ago but was only investigated within the period of this study.

¹¹ Indonesian criminal law recognizes two phases of investigation: (1) penyelidikan, which roughly translates into preliminary investigation that aims to establish the occurrence of a crime and (2) penyidikan, in which evidence gathering aims to identify suspects and to build a prosecutable case. For the purpose of this study, “investigation” shall mean penyidikan.

For the purpose of this study, the terms “SOE/SOEs” and “SOE environment” covers, among others: the Ministry of SOEs, the companies that were established as SOEs, and the companies that are identified as subsidiaries of SOEs.

Our data on corruption investigation is derived from the cases that are investigated by three law enforcement authorities, namely the Indonesian Police, the Prosecution Office, and the KPK. These authorities may not publish the cases that are currently under investigation, therefore our primary means of data collection is internet search using search engines. In general, our data sources can be grouped into official publications posted on the official websites of the authorities or other relevant institutions and media coverage, where we refer to at least three different media sources. Additionally, we also used court ruling documents to support our data.

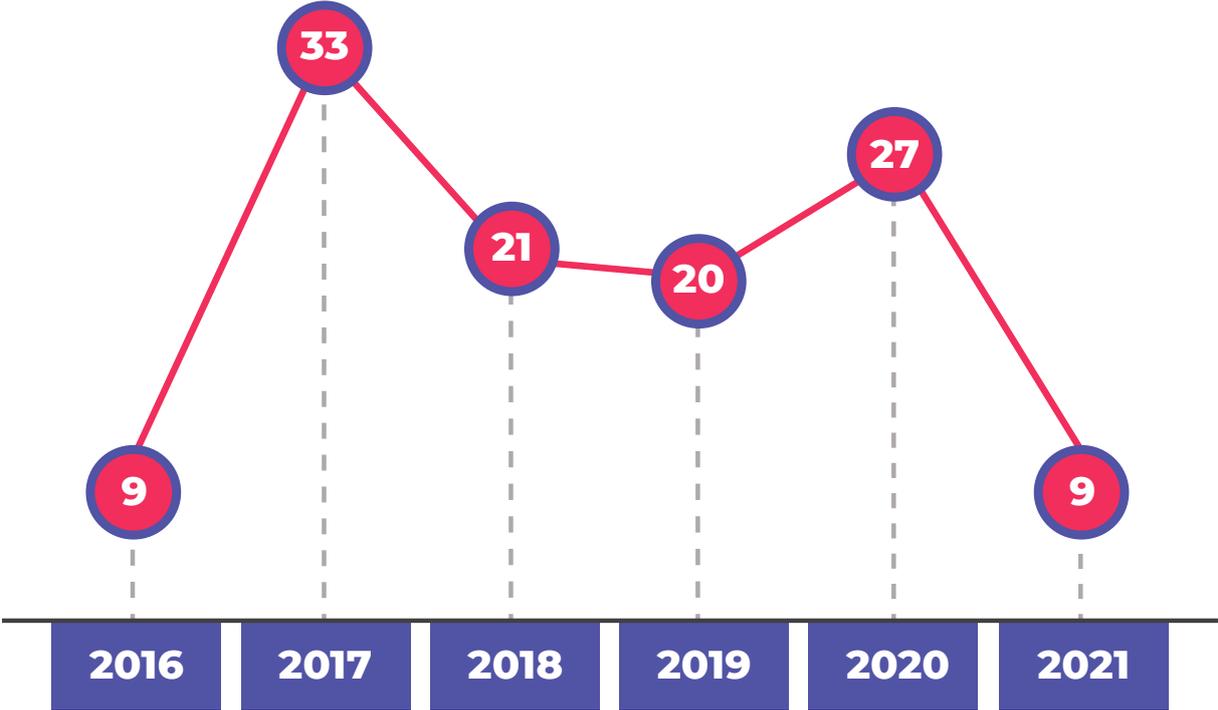
Given the boundary of this study, this study did not attempt to identify whether the corruption trend in the SOE environment increases or decreases over the years. Instead, this study provides an insight on the characteristics of corruption cases that took place in the SOE environment that our law enforcement authorities are investigating. In spite of that, the cases that we elaborate in this study illustrate the rampant corruption in the SOE environment.



**Trends of Criminal
Investigation into Corruption
Cases in SOE Environment:
Substantial State Loses**

In the past six years, from 2016 to 2021, law enforcement authorities investigated at least 119 corruption cases in the SOE environment. The losses that the state incurred because of this crime totaled to at least Rp47,926,674,165,808.

Figure 1. Number of Cases in SOE Environment Investigated by Law Enforcement Authorities, 2016—2021 (Total: 119 Cases)



According to our data, by year, law enforcement authorities investigated at least 9 cases in 2016, 33 cases in 2017, 21 cases in 2018, 20 cases in 2019, 27 cases in 2020, and 9 cases in 2021 that occurred in the SOE environment. In 2016, the largest state losses were derived from the procurement of 10 units of cranes, in which corruption allegedly took place, by a port management service provider PT Pelabuhan Indonesia II (Persero)—also known as Pelindo II.¹² Investigators found suspected price mark-ups and discrepancies between budget planning and the actual procurement. Because of these, state loss was estimated at Rp45.5 billion.

¹² Ambaranie Nadia Kemala Movanita, KOMPAS.com, “Jadi Tersangka Kasus ‘Mobile Crane’, Ini Peran Mantan Pejabat Pelindo II Haryadi” (Named as Suspect in the ‘Mobile Crane’ Case, This is How Ex-Pelindo II Official Haryadi Plays His Part), 2016, accessed from <https://nasional.kompas.com/read/2016/03/08/18433931/Jadi.Tersangka.Kasus.Mobile.Crane.Ini.Peran.Mantan.Pejabat.Pelindo.II.Haryadi>.

As shown on the figure, the year with the highest number of cases investigated was 2017 with 33 cases. Our data that we collected from ICW monitoring shows that the potential state losses in some of the cases was even higher. One of those cases involved PT PANN Pembiayaan Maritim (Persero), a financing company that specializes in the maritime sector, with an estimated loss as high as Rp1.3 trillion.¹³ Allegedly, the corruption took place in the financing, debt transferring, and the operations and provision of bridging funds from PT PANN Pembiayaan Maritime (Persero) to PT Meranti Maritime. In another case, BPK’s audit identified an estimated Rp599.29 billion of state losses in an alleged corruption of the pension funds of PT Pertamina (Persero), Indonesia’s oil and gas company. The suspect in this case was a former president director of PT Pertamina’s pension fund, who allegedly used pension money for stock transactions.¹⁴

Figure 2. Amount of State Losses in Corruption Cases in SOE Environment, 2016—2021 (Total Losses: Rp47.9 Trillion)



¹³ Eko Priliawito and Edwin Firdaus, VIVA.co.id, “Kasus Korupsi Rp1,3 Triliun di PT PANN Sering Ditunda” (Trial of PT PANN in Corruption Case Worth Rp1.3 Trillion Delayed Yet Again), 2017, accessed from <https://www.viva.co.id/berita/nasional/972526-kasus-korupsi-rp1-3-triliun-di-pt-pann-sering-ditunda>.

¹⁴ Yulida Medistiara, detiknews, “BPK: Kerugian Negara Kasus Dana Pensiun Rp 599 Miliar” (BPK: State Loss in Pension Fund Case Amounts to Rp599 Billion), 2017, accessed from <https://news.detik.com/berita/d-3518192/bpk-kerugian-negara-kasus-dana-pensiun-rp-599-miliar>.

The corruption cases that took place in the SOE environment in the 2016-2021 period caused enormous state losses, amounting to at least Rp47,926,674,165,808. While this number already appears stupefying, it may be lower than the actual loss caused by the crime. Our inquiry to the cases found that one of the reasons is, in some cases, BPK or BPKP (the Development Finance Comptroller) have not completed their calculations.

By amount, the “lowest” loss was found in 2016 and the highest in 2021. It was the year when every Rupiah in the state budget was needed to protect the people while the nation was enduring COVID-19 pandemic. Nonetheless, 2021—and 2020—were also the years when the state recorded the highest losses because of corruption that took place. In 2020, the state lost Rp17,403,661,831,180; this figure increased to Rp23,907,457,559,129 in 2021.

The significant value of losses that was caused by corruption within SOEs was ironic given the amount of public money injected to SOEs. According to Indonesian Finance Minister Sri Mulyani, from 2005 to 2021 SOEs received a total of Rp695.6 trillion of public funds through the State Equity Participation (PMN) mechanism.¹⁵ Moreover, during the pandemic, SOEs received additional fund injection from the government under a stimulus program of National Economy Recovery (PEN). In total, from 2020 to 2022, the funds channeled to SOEs under PEN amounted to Rp1,761,150,000,000,000.¹⁶

With respect to PEN funds for SOEs, an ICW study concludes that the policy lacks transparency and oversight.¹⁷ These gaps, combined with the huge amount of PEN budget, opened up vulnerability to fraud. Moreover, in ICW’s assessment on PEN’s oversight, we found that there was no sufficient scrutiny. In terms of PEN, the only institution that received a clear mandate to oversee the funds was BPKP as the government’s internal comptroller. Other relevant agencies, such as BPK, law enforcement authorities, and the Indonesian Parliament had no known oversight mandate over PEN.

15 Rina Anggraeni, SINDOnews.com, “BUMN Sudah Menikmati Siraman PMN Rp361,3 Triliun, Ini Rinciannya” (SOEs Enjoy Rp361.3 Trillion of State Equity Money, Here’s Where the Money Goes), 2021, accessed from <https://ekbis.sindonews.com/read/629491/34/bumn-sudah-menikmati-siraman-pmn-rp3613-triliun-ini-rinciannya-1639577556?showpage=all>.

16 See Indonesia Corruption Watch, “Kebijakan Pemulihan Ekonomi Nasional untuk BUMN: Minim Pengawasan & Tidak Transparan, Celah Penyelewengan Terbuka Lebar” (National Economic Recovery Policy for SOEs: Lacks Oversight & Transparency), 2021, accessed from <https://www.antikorupsi.org/id/article/kebijakan-pemulihan-ekonomi-nasional-untuk-bumn-minim-pengawasan-tidak-transparan-celah>.

17 Ibid.



Corruption in SOE Environment: Continuously Pervasive Despite The Pandemic

The unprecedented COVID-19 pandemic and the crisis that has unfolded in Indonesia from early 2020 to 2021 did not stop corruption in the SOE environment from rising. This was evident from the number of cases investigated in 2020 alone with 27 cases. At the same time, in 2020 ICW identified many SOEs that nearly collapsed and had to furlough dozens of their employees. The SOEs are distributed in the energy sector, such as PT PLN and PT Pertamina; in the tourism sector, such as PT Garuda Indonesia—Indonesia’s national airline—and state-owned hotels; and in the transport sector, such as railway company PT Kereta Api Indonesia (PT KAI), toll road operator Jasa Marga, and the toll road management unit of PT Waskita Karya.¹⁸

Meanwhile, in 2021, based on ICW’s monitoring, the number of cases declined to its lowest level as in 2016, namely 9 cases. However, it is important to note that the actual acts of corruption that took place may well be higher. However, as explained, this study does not include cases where the suspects have not been named by law enforcement authorities.

¹⁸ Indonesia Corruption Watch, “Catatan Kritis: Kebijakan Pemulihan Ekonomi Nasional untuk BUMN” (A Critical Perspective: National Economic Recovery Policy for SOEs), Op.Cit., pg. 6.



Distribution of Actors, Sectors, and Methods of Corruption in SOE Environment

ICW focuses particularly on corruption data that are linked to the infrastructure sector. This focus was chosen considering that the administration of President Joko Widodo has pledged ambitious infrastructure plans and projects. At the same time, there are concerns that the government's emphasis on the infrastructure sector drives dishonest actors to commit fraudulent practices by targeting infrastructure projects under SOEs as an arena of corruption. Our inquiry found that at least 16 corruption cases within SEOs are linked to infrastructure projects, while 103 other cases are linked to other sectors. In terms of company, the 16 cases are linked to Pertamina, PT Waskita Karya (Persero) Tbk, PT PLN (Persero), airport operator PT Angkasa Pura II (Persero), and contractor PT Wijaya Karya (Persero) Tbk.

Pertamina was involved in an alleged corruption of sale or relinquishment of assets belonging to Pertamina. The asset in question was a parcel of land in Simprug Kavling, South Jakarta area, of 1.088m². The estimated loss in this case was Rp40.9 billion¹⁹ and Pertamina's Senior Vice President (SVP) on Asset Management was determined as the suspect. Meanwhile, contractor Waskita Karya was involved in the act of corruption through 14 fictitious projects purportedly executed by Division III/ Engineering/II of the company from 2009-2015.²⁰ PLN was involved in a bribery case of Rp4.8 billion for Mine Mouth Electric Plant Riau-1.²¹ Meanwhile, in another bribery case, Angkasa Pura II got tangled in a Baggage Handling System project. The finance director of PT Angkasa Pura II allegedly received bribes from an employee of PT Industri Telekomunikasi Indonesia (PT Inti) to help PT Inti to win the project's tender.²² Finally, in the infrastructure sector, Wijaya Karya was allegedly involved in a construction project of Bangkinang Bridge in Kampar, Riau (Waterfront City project) and caused an estimated loss of Rp39.2 billion.²³ Wijaya Karya became entwined with the case after its Manager of Region II PT Wijaya Karya, Operations Division I, was determined as a suspect in the case by KPK in early 2019.

By sector, the sector with the highest corruption rate in SOE environment that was investigated in 2016-2021 by law enforcement authorities was banking with at least 38 cases, followed by transportation sector with 15 cases, social and public services with 9 cases, agriculture/plantation with 9 cases, and energy and electricity with at least 8 cases.

19 Audrey Santoso, detikNews, "Bareskrim Tetapkan Pejabat Pertamina Tersangka Kasus Tanah Simprug" (Indonesian CID Names Pertamina SVP a Suspect in Simprug Land Case), 2017, accessed from <https://news.detik.com/berita/d-3567889/bareskrim-tetapkan-pejabat-pertamina-tersangka-kasus-tanah-simprug>.

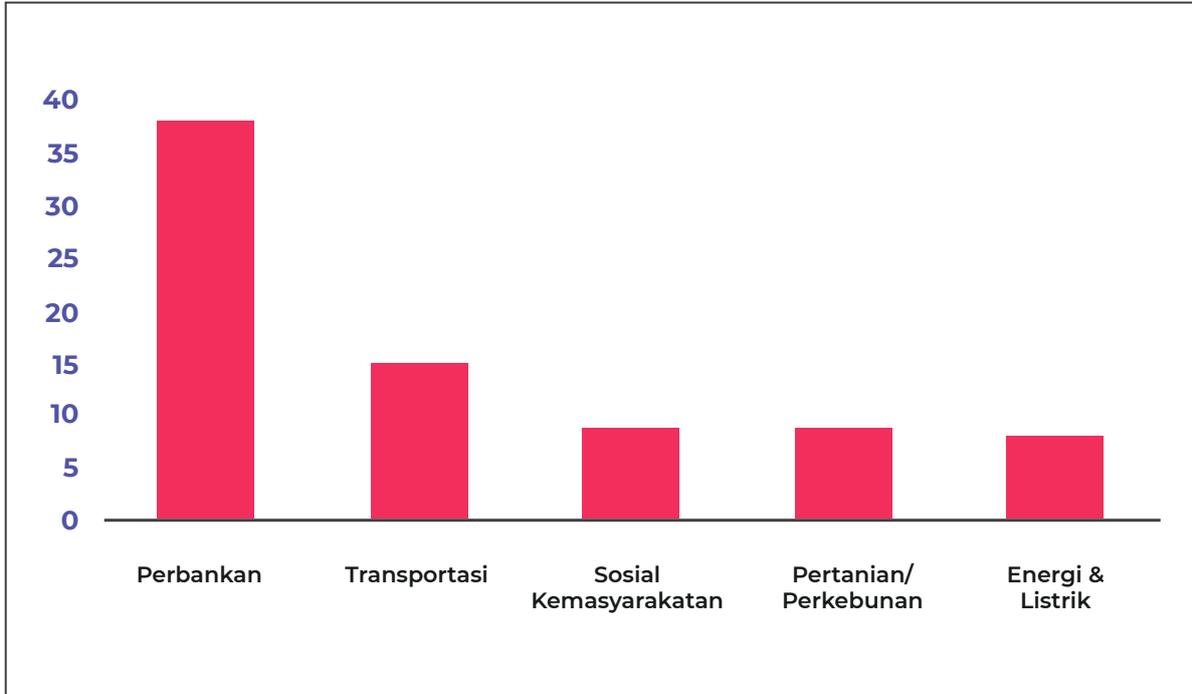
20 Komisi Pemberantasan Korupsi, "Siaran Pers: KPK Tahan Lima Tersangka Perkara TPK Proyek Fiktif di PT Waskita Karya" (Press Release: KPK Arrests Five Corruption Suspects of Fictitious Projects in PT Waskita Karya), 2020, accessed from <https://www.kpk.go.id/id/berita/siaran-pers/1749-kpk-tahan-lima-tersangka-perkara-tpk-proyek-fiktif-di-pt-waskita-karya>.

21 See Indonesia Corruption Watch, "Korupsi (Kembali) Menyengat PLN" (Corruption Stings PLN (Again)), 2018, accessed from <https://www.antikorupsi.org/id/article/korupsi-kembali-menyengat-pln>.

22 Zunita Putri, detikNews, "KPK Tetapkan Dirkeu Angkasa Pura II Tersangka Suap" (KPK Names Finance Director of Angkasa Pura II Bribery Suspect) 2019, accessed from <https://news.detik.com/berita/d-4648935/kpk-tetapkan-dirkeu-angkasa-pura-ii-tersangka-suap>.

23 Haris Fadhil, detikNews, "KPK Tetapkan 2 Tersangka Kasus Korupsi Rp 39 M Jembatan Bangkinang" (KPK Determines 2 Suspects in the Rp39 B Corruption of Bangkinang Bridge), 2019, accessed from <https://news.detik.com/berita/d-4467697/kpk-tetapkan-2-tersangka-kasus-korupsi-rp-39-m-jembatan-bangkinang>.

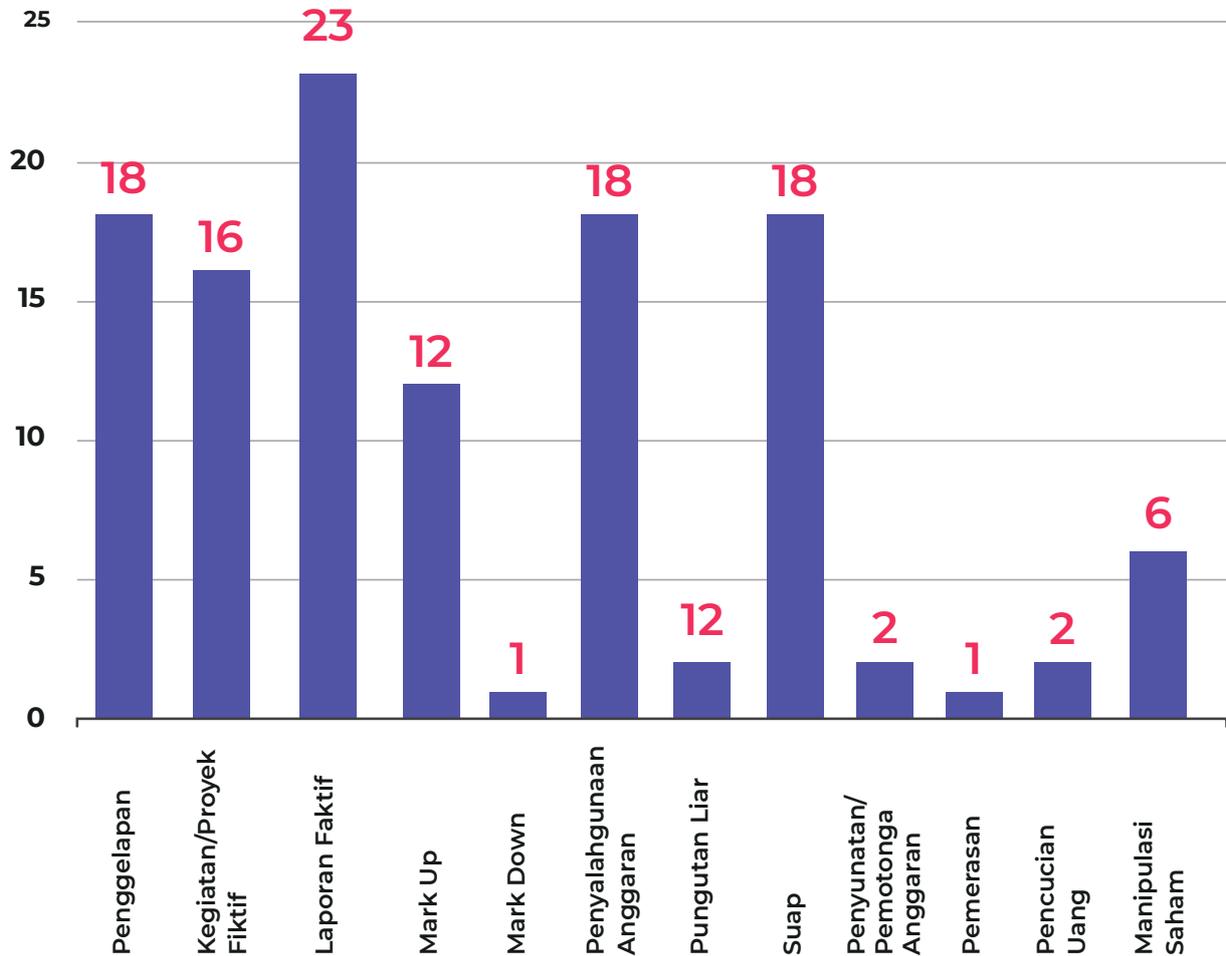
Figure 3- 6 Sectors with the Highest Corruption Rate in SOE Environment, Tahun 2016—2021



ICW did a deep dive on our data and found that when banking, social and public services (e.g., cases linked to insurance), and capital market sectors are grouped together under “financial sector” as an umbrella category, the amount of state losses increased dramatically. There are at least 35 cases with estimated total losses of Rp45,069,286,025,936. To note, the total state losses that ICW recorded in 2016-2021 because of corruption in SOEs amounted to at least Rp47,926,674,163,808.

Of the 38 cases in the banking sector, ICW identified indications of vulnerabilities in customers’ deposit management and loan disbursement. In many corruption cases in this sector, customers’ deposits and loans were the objects of fraud with false reporting as the common method of the crime.

Figure 4. Methods of Corruption in SOE Environment, 2016—2021



The most frequently used method of corruption by perpetrators in the SOE environment as the figure shows is fictitious reporting. This method was used in at least 23 cases in 2016—2021. Bribery, budget misuse, and embezzlement together rank as the second most frequently used method—each was found in 18 cases of corruption. The third most frequently used method is fictitious activity/project, which was used in a total of 16 cases. In an ICW report that captures the trends of corruption prosecution titled “Hasil Pemantauan Tren Penindakan Kasus

Korupsi Semester I 2021” (Monitoring Report on Trends of Corruption Prosecution in Semester I 2021), fictitious activity/project was the predominant method. Finally, perpetrators of corruption in the SOE environment also frequently used mark-up, which was found in at least 12 cases.

There are also methods with relatively low use frequency, such as “stock ownership manipulation”. In ICW’s assessment, this is not because of the lack of cases where such methods were used, but because of the charges that law enforcement authorities employed when investigating a case. It is important to point out that the low number of cases using such methods is deceiving; in fact, the total losses caused by these methods were sizable. Under “stock manipulation” method, for example, the investigated cases in total caused state losses of 40,615,000,000.

In terms of the background of actors who perpetrated this crime, ICW found 90 of them came from the private sector. This was followed by 83 individuals who formerly held middle-management positions in SOEs, 76 employees/staff, 51 directors, and finally the remaining 40 came from other jobs.

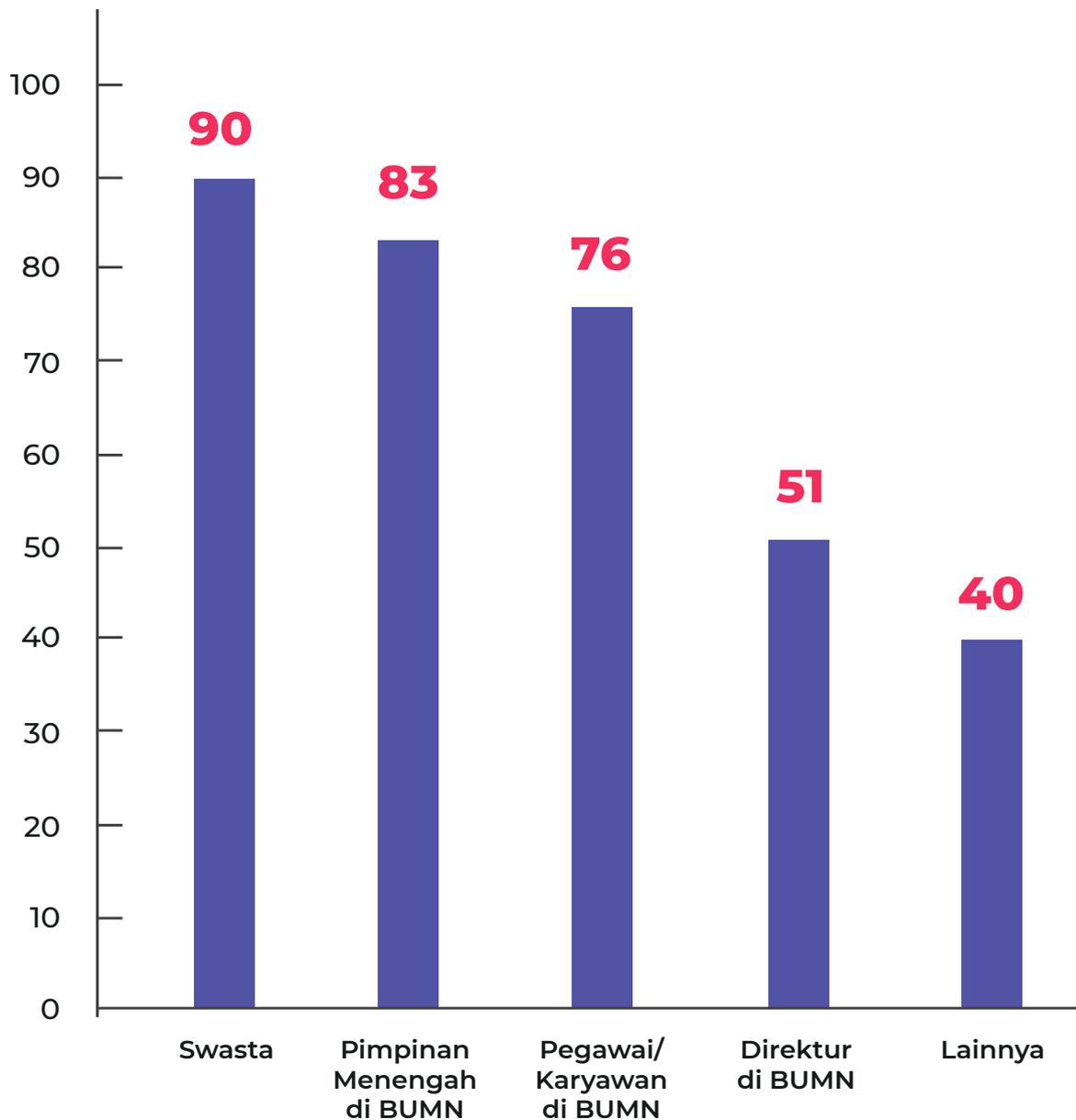
ICW found at least 90 suspects in corruption cases in the SOE environment from 2016—2021 are from the private sector. ‘Private sector’ refers to a corporation as a legal entity, or individuals who hold positions or work for companies other than SOEs or SOE subsidiaries. In a ‘mega’ corruption case that involved insurance company Jiwasraya, the investigation also held at least 11 corporations liable for their alleged involvement in laundering money resulting from the management and investment of funds under PT Asuransi Jiwasraya.

To note, corruption cases that involve the private sector as a perpetrator predominantly occur in the banking sector. Moreover, the common methods used by private sector suspects are fictitious reports, stock manipulation, budget misuse, bribery, and mark-up.

The finding of the private sector as an actor in the crime of corruption is not a novelty. A study conducted by Universitas Gajah Mada found that there are 670 private sector actors that sat as defendants in corruption cases in 2001—2015.²⁴

24 See Anti-Corruption Clearing House, “Upaya KPK Menangani Korupsi Di Sektor Swasta” (How KPK Attempts to Address Corruption in the Private Sector), accessed from <https://acch.kpk.go.id/id/artikel/paper/166-upaya-kpk-menangani-korupsi-di-sektor-swasta>.

Figure 5. Background of Corruption Suspects in SOE Environment,
2016—2021
(Total number: 340 Suspects)



There are a variety of factors behind the high involvement of the private sector in corruption cases in Indonesia. One study attempted to link the vast amount of technical costs required for an act of corruption to be realized and the role of the private sector as the financier in corruption.²⁵ Moreover, the significant role of the

25 Hifdzil Alim, Pusat Kajian Anti Korupsi FH UGM, "Swasta Kotor dalam Korupsi" (Private Sector Down in the Mud of Corruption) 2015, accessed from <https://pukatkorupsi.ugm.ac.id/?p=3859>.

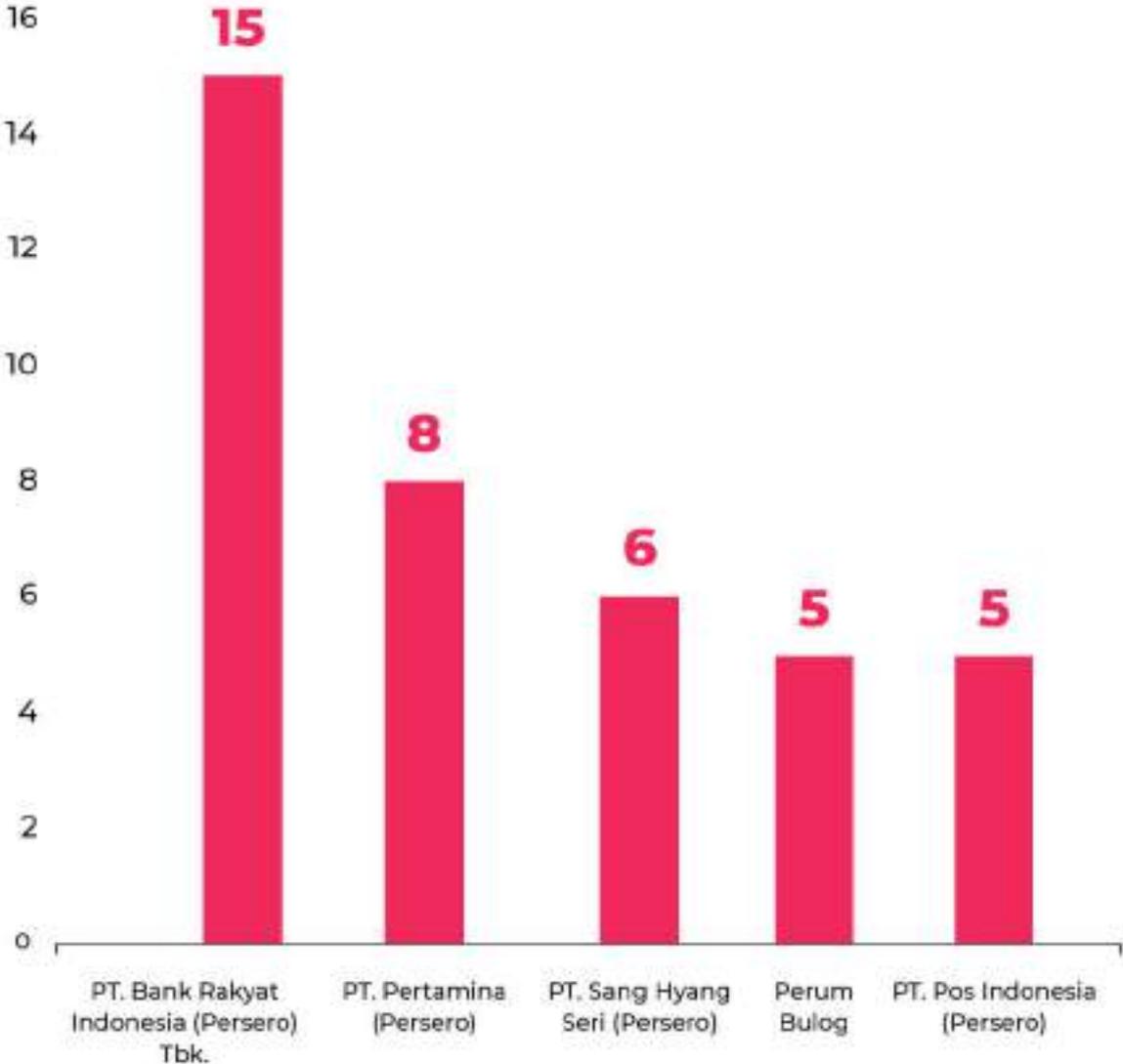
private sector in corruption cases is also linked to a shift of control over the act of corruption; while the government used to be in control, today that role has shifted to the private sector that acts like a pseudo state. They can influence decisions such as which companies to get which project, the project's execution timeline, and project budget.

The second highest actors are individuals whom ICW grouped as "middle-management in SOEs" with a total of 83 named suspects. This category covers division leaders, managers, and other similar structural positions in SOEs and their subsidiaries. However, this category excludes the title of "director".

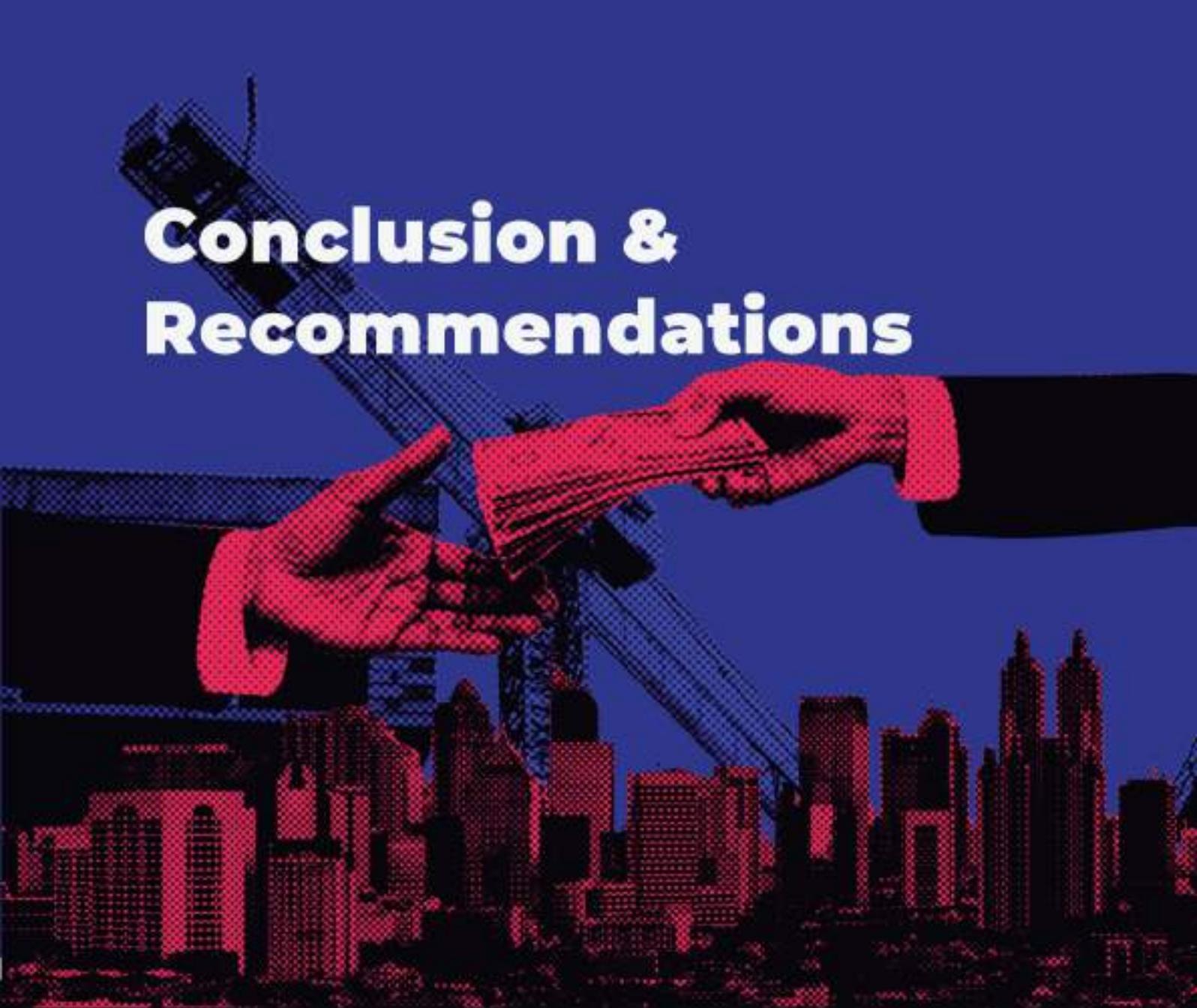
Based on ICW's monitoring, at least 76 suspects were staff or employees in an SOE and 51 suspects were "SOE director". The "SOE director" category covers president director, vice director, and other job titles that include 'director' in their nomenclatures. Finally, there are 40 suspects in the "Others" category, which covers ministers, civil servants, and other positions in state institutions. One of the major corruption cases that ICW monitors and that involves a variety of these actors is the Coal Electric Power Plant Riau-1. This case involved members of the executive branch, legislators, and private sector actors. They are parliamentarian Eni Mulyani Saragih from Functional Groups (Golongan Karya) faction, the then social affairs minister and treasurer of the Party of Functional Groups Idrus Marham, business owner Johannes Budisutrisno Kotjo, and the then director of PT PLN Sofyan Basir. The case progressed to prosecution; all defendants were convicted and sentenced except for Sofyan Basir who was acquitted.

Of the total 119 cases that involved at least 54 SOEs and their subsidiaries in 2016-2021, we identified six SOEs with the highest rate of corruption involvement. Bank BRI ranks first with a total of 15 cases, followed by Pertamina with 8 cases, PT Sang Hyang Seri (engaged in the agricultural sector, particularly seed production) with 6 cases, and lastly Perum Bulog (food logistics company) and PT Pos Indonesia (national postal service), each with five cases that rank fifth and sixth, respectively. It is important to be mindful that the actual cases may be even higher than the data presented in this study, especially if corruption cases that occur at subsidiary level are linked to their holding SOEs.

Figure 6 - 6 SOEs with the Highest Rate of Corruption, 2016—2021



Conclusion & Recommendations



From this study, we can conclude that SOEs are vulnerable to corruption. In terms of losses, from 2016 to 2021 the state suffered at least Rp47,926,674,165,808 in damages. The losses derived from a total of at least 119 corruption cases in the SOE environment that were and are under investigation by law enforcement authorities.

During COVID-19 pandemic, corruption cases in SOEs have not seemed to abate. On the contrary, the state experienced some of its largest losses due to corruption cases in 2020 and 2021. The losses were ironic, as throughout the pandemic SOEs received fund injection under the government's PEN initiative amounting to Rp1,761,150,000,000,000 from 2020 to 2022.

ICW highlights the high degree of vulnerability to corruption in the banking sector. This conclusion is led by the fact that the banking sector ranks first with the highest number of corruption cases investigated in the SOE environment in 2016—2021. The sector dominates with at least 38 investigated cases. By SOE, PT. Bank Rakyat Indonesia (Persero) Tbk ranks first as the SEO with the highest rate of corruption involvement with a total of at least 15 cases. Furthermore, in the banking sector, ICW found vulnerabilities in deposit and loan management. In most cases that involve banks, the corruption often targets customers' deposits and loan funds.

Finally, based on the map of methods of operations and background of suspects in the SOE environment, we found fictitious reports as the most frequently employed method. In terms of background of suspects, most of them came from the private sector.

Reflecting on the findings and issues discussed in this study, ICW offers the following recommendations:

- 1 There needs to be increased scrutiny of SOEs in the financial sector by authorities such as KPK, the Financial Services Authority, Finance Ministry, and BPK;
- 2 PEN allocation and disbursement to SOEs need to be evaluated considering how rampant corruption has been and the significant amount of state losses caused by corruption in SOE environment throughout the pandemic;
- 3 Given that the perpetrators of corruption in SOEs are mostly middle and high-management officials who make a deal with the private sector, the selection process of candidates for directorship has to include strong integrity as one of the main criteria;
- 4 The government needs to strengthen the oversight role of the board of commissioners especially on SOEs' major projects that are prone to corruption. Ensure that the individuals sitting in the board are professional, competent individuals

with uncompromising integrity. The government needs to make sure that the position of a commissioner is not used as a reward for someone's role in a political process or bargaining chips in elections. Otherwise, it will be even more difficult to uprooting corruption in SOEs;

- 5 Law enforcement officers need to be diligent in recognizing the potential that money laundering crime also takes place in corruption cases, especially the major ones and in the financial sector. Their thoroughness will enable them to use money laundering charges and demonstrate the deterrent effect of law enforcement by holding corporations—and not just the individuals—criminally liable



Indonesia Corruption Watch

2022