PRIVATE SECTOR BRIbery AS A CORRUPtION CRime FOR LEGAL CERTAINTY IN INDONESIA

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ABSTRACT

Objective: The purpose of this article is to examine the following considerations, the urgency of regulating corruption as a corruption crime (TIPIKOR) and the urgency of legal reform of the law for TIPIKOR in the future.

Method: This study paper uses legal study that uses legal standards, reviews using the techniques of analyzing legal documents through study, and is presented in descriptive text.

Results: As a result of the study, it was found that the reason for the weak anti-corruption law is the lack of visibility of Typico criminals committed outside the government. All artists who perform TIPIKOR must cooperate with national organizations, and even if the result of this action causes the country to lose a lot of money or the country's economy is down.

Conclusion: The regulation of private sector bribery as a TIPIKOR in Indonesia is urgently needed to provide legal certainty against corruption acts spread across various rules that do not regulate TIPIKOR. The form of legal uncertainty is reflected in the many regulations that are outside the TIPIKOR law that regulates corruption in the private sector as specified in UNCAC 2003 but are not seen as TIPIKOR, so these actions are not seen as extraordinary crimes as is the case with corruption.

Keywords: private sector, legal certainty, bribery, corruption crime, regulating.

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SUBORNO DO SETOR PRIVADO COMO CRIME DE CORRUPÇÃO POR SEGURANÇA LEGAL NA INDOENÉSIA

RESUMO

Objetivo: O objetivo deste artigo é examinar as seguintes considerações, a urgência de regulamentar a corrupção como um crime de corrupção (TIPIKOR) e a urgência de uma reforma legal da lei para TIPIKOR no futuro.

Método: Este artigo de estudo utiliza estudo jurídico que utiliza padrões legais, revisões usando as técnicas de análise de documentos legais por meio de estudo, e é apresentado em texto descritivo.

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Resultados: Como resultado do estudo, descobriu-se que a razão para a fraca lei anti-corrupção é a falta de visibilidade de criminosos Típicos cometidos fora do governo. Todos os artistas que executam o TIPIKOR devem cooperar com organizações nacionais, e mesmo que o resultado desta ação faça com que o país perca muito dinheiro ou que a economia do país fique em baixa.

Conclusão: A regulamentação do suborno do setor privado como uma TIPIKOR na Indonésia é urgentemente necessária para fornecer segurança jurídica contra atos de corrupção espalhados por várias regras que não regulam a TIPIKOR. A forma de incerteza jurídica reflete-se nos muitos regulamentos que estão fora da lei TIPIKOR que regula a corrupção do setor privado, conforme especificado na UNCAC 2003, mas não são vistos como TIPIKOR, por isso essas ações não são vistas como crimes extraordinários, como é o caso da corrupção.

Palavras-chave: setor privado, segurança jurídica, suborno, crime de corrupção, regulação.

1 INTRODUCTION

The 1945 Constitution of the Republic of Indonesia (UUD RI) mandates the realization of a just and prosperous Indonesian society. Thus, to realize justice and prosperity, development in all fields becomes a must to achieve these goals. The most important form of development is the development of legal awareness in the form of prevention and enforcement of crime as an absolute requirement (condisio sine quanon), including law enforcement in the context of preventing and eradicating corruption. The passage discusses the government’s efforts in Indonesia to combat corruption from the 1945 Constitution to the Anti-Corruption Commission Act. (Saragih, 2023)

The United Nations (UN) noted that corruption is a serious crime that can undermine social and economic development in all walks of life. Both countries, regions, and communities are not immune to this crime. Each year, the UN records about $2.6 Trillion vanished as a result of corruption. This figure is equivalent to five percent of the global Gross Domestic Product (GDP) (McKeone, 2021). The UN Secretary-General Kofi Atta Annan in de Man (2022) said that corruption is an insidious plague that has a wide range of corrosive effects on societies. It undermines democracy and the rule of law, leads to violations of human rights, distorts markets, erodes the quality of life, and allows organized crime, terrorism, and other threats to human security to flourish. Furthermore, Kumar (2003); Peters (2018); Ngumbi (2020) add corruption is a widespread plague of crime whose effects are damaging to society. He undermines democracy and the rule of law, causes crimes against humanity, undermines trade, erodes the quality of life, and allows groups of crime, terrorism, and other threats to human security to flourish.

The effect of such corruption was discussed at the United Nations Convention Against Corruption (UNCAC) in 2003 in Viena Austria, which resulted in a
recommendation called the UNCAC or when translated into Indonesian the UNCAC (Joutsen & Graycar, 2012). Furthermore, Webb (2005) added in his paper that the UNCAC recommends that participating countries ratify and implement the corruption provisions in the convention into the laws of their respective countries, in which case Indonesia is active as a facilitator in formulating the convention together with other member states and agreed on the birth of the UN anti-corruption convention.

In 2006 the Government of Indonesia also ratified the provisions of UNCAC by issuing Law No. 7/2006 concerning ratification of the UNCAC (Prakasa & Unggul, 2019). Ratification is a form of law action to bind a state that has ratified an international treaty (Huda et al., 2021). UNCAC 2003 in Zahari et al (2022) provides an expansion of the meaning of corruption that is not only carried out by the government with parties other than the government but parties other than the government with parties other than the government, thus clarifying the types of acts categorized as TIPIKOR, namely: 1) bribery of national public officials; 2) bribery of foreign public officials and officials of public international organizations (bribery of foreign public officials and officials of public international organizations; 3) misappropriate or other diversions of property by a public official; 4) trading in influence, abuse of functions, illicit enrichment ); 5) bribery in the private sector (bribery in the private sector); 6) embezzlement of wealth in the private sector (embezzlement of property in the private sector); 7) laundering of proceeds of crime; and 8) concealment of wealth. Corruption has widely proliferated across various sectors, including the private sector (Fernando et al, 2022).

The content of UNCAC is compared with Law No. 31/1999 concerning "The Eradication of Corruption Crimes" as amended and supplemented by Law No. 20/2001 concerning "Amendments to Law No. 31/1999 in classifying the TIPIKOR, in the author's findings there are UNCAC provisions that have not been or are not regulated at all in the TIPIKOR. Among the provisions that are not regulated in the Law are bribery to foreign public officials and officials of public international organizations, trading influence, and bribery in the private sector.

In this discussion, the author emphasizes more on the provisions related to bribery in the private sector (bribery in the private sector) with the consideration that the incident of bribery in the private sector is a more common crime of corruption, while in the absence of private sector bribery arrangements, where the elements of private sector bribery have met the criminal offense of corruption under article 2, article 3, article 5,
article 11, article 12 of the TIPIKOR (Sudarti & Sahuri, 2019), but in his criminal responsibility, the subject (perpetrator) cannot be accounted for to him the article of TIPIKOR, even though other elements have met the elements of corruption, because the corruption acts are carried out by private actors, both as private individuals with individuals, private law entities with private individuals, private law entities with private law entities.

Some of the cases that the author can appear in this writing include acts categorized as bribery between private and private business entities as written in Indonesia's online news investment report that 40% of drug prices are used to bribe doctors. The result of bribery by pharmaceutical companies to doctors is the disadvantage of society as consumers of drugs. This is because people as consumers of the drug have to bear the cost of purchasing more expensive drugs. Later about 40% of the price of the drug is used by pharmaceutical companies to bribe doctors.

Another case can also be seen from the differences in interpretation related to State Enterprises (SOE) and SOE subsidiaries, some experts argue that the finances of SOEs and subsidiaries of SOEs have entered the private realm, so that they do not become objects of TIPIKOR, including law subjects, both humans and law entities that are the cause of losses to SOEs and SOE subsidiaries company that cannot be accounted for to them in the realm of corruption loans. Meanwhile, Cheng (2016); February (2019); Shaheer et al (2019) also argue that the finances of SOEs and SOE subsidiaries are still included in the state financial domain so that they remain the object of TIPIKOR, the cross-opinions of these experts have also become stronger with the decision of the Constitutional Court No. 01/PHPUPRes/XVII/2019 saying that the subsidiaries of SOEs are not state finances because their capital and shares do not come from direct placement from the state (Sunggara & Marbun, 2021). The Constitutional Court's decision was then followed by the Supreme Court of the Republic of Indonesia by giving a free or loose decision on cases related to the finances of SOEs or subsidiaries of SOEs, which were handled by law enforcement officials, both the police, prosecutors, and the KPK. Among the cases that were declared not proven to be corruption by the Supreme Court was the case of Frederick ST Siahaan. In the judgment, the Supreme Court of the Republic of Indonesia granted the defendant's appeal and overturned the decision of the TIPIKOR Court in PT. DKI Jakarta No. 24/Pid-Sus-TPK /2019/PT (Januarsyah et al., 2022). PT. DKI Jakarta corroborates the decision of the TIPIKOR Court in PN Central Jakarta, by
deciding on its own stating that although the defendant is proven to have committed the act as charged by the public prosecutor, the act does not constitute a criminal act, because Pertamina's subsidiary, PT. Pertamina Hulu Energi (PHE) does not include the state finance department concerning the decision of Constitutional Court No. 01/PHPUPres/XVII/2019.

Another example according to Kusumawardhana & Badaruddin (2018), related to bribery between club football score settings that is rampant at this time that affects the Football Association of Indonesia (PSSI), which is only suspected by investigators with the Law of the Republic of Indonesia No. 11/1980 concerning "the Bribery Crime", the bribery crime law is not included in the TIPIKOR, because the perpetrators do not have elements of civil servants, state organizers, and state financial managers.

In the case of bribery pass PS Mojokerto Putra to Liga 1 (Rasji & Rinaldy, 2022). Based on the findings of the Bola Anti-Mafia Task Force from the results of examination of the previous suspect, which involved Dwi Irianto aka Mbah Putih. There was an unlawful act committed by Vigit Waluyo, that's why Vigit Waluyo was immediately a suspect (the criminal act of bribery). Two (2) people have been named as suspects in this case, namely Vigit Waluyo and Dwi Irianto or Mbah Putih. Vigit Waluyo's role as the manager of PS Mojokerto Putra asked Mbah Putih (Dwi Irianto) for help so that PSMP Qualified for League 1, Dwi Irianto had received money from Vigit Waluyo's brother, in the form of IDR 50 million in cash as Down Payment, then IDR 25 million through Mandiri account transfer, and IDR 40 million also Mandiri account. The example of this case shows that Indonesia's TIPIKOR still has a narrow concept by not being able to reach private sector bribes as TIPIKOR, thus it is clear that there is terminology that there are corruption acts that are not TIPIKOR, as the author exemplifies.

The inability of private sector bribes to be entangled with the TIPIKOR is because the TIPIKOR is very limited regarding what actions can be categorized as TIPIKOR, resulting in a narrow meaning of TIPIKOR compared to the meaning of TIPIKOR that are generally applicable in the world. In the TIPIKOR, the acts said to be corruption are placed from Article 2 to Article 20 of the TIPIKOR, in addition, there are also acts related to TIPIKOR regulated in Articles 21 to 24. All of these provisions are disputes made between private actors and public actors, so that they cannot stand alone, as well as corruption committed by private actors.
Based on the background above, this author is to examine the following considerations, the urgency of regulating corruption as a corruption crime (TIPIKOR) and the urgency of legal reform of the law for TIPIKOR in the future. Every corruption perpetrator can be punished the same as the same law as the perpetrator of corruption. For discussion, this paper uses a theoretical approach, legislation, a conceptual approach, and a comparative law approach. The law materials obtained will be described using systematic interpretation.

2 LITERATURE REVIEWS

Corruption involves a misuse of authority or a breach of trust by individuals who violate the law and engage in improper actions to gain advantages for themselves or others, contrary to their prescribed duties and ethical principles. (Widijowati, 2023). Yusrizal (2015); Salam & Prakasa (2021) stated that the acts categorized as corruption in Indonesia are grouped as follows: 1) Financial losses of the state; 2) Bribery; 3) Embezzlement in office; 4) Extortion; 5) Fraudulent acts; 6) Conflict of interest in procurement; 7) Gratuities; and 8) Other criminal acts related to TIPIKOR. Taking into account the provisions in the TIPIKOR Act, based on the example that the author presented in the background section before this, the acts or practices carried out by pharmaceutical companies to doctors, bribery in the regulation of ball scores cannot be categorized as a criminal act of corruption, the cause is because from Article 2 to Article 24 of the TIPIKOR Act there is no mention at all of the act of bribery between private parties with other private parties.

The author argues that currently there is a need for a regulation of TIPIKOR against the provisions of bribery crimes committed by the private sector. The preparation of law is required to pay attention to and obey the principles. The ordinary law principle is also analogous to the 'heart' or 'foundation' of a rule of law. Mertokusumo (1988) gives the following law principles: "... that the principle of law is not a concrete law, but rather a general and abstract basic thought, or is the background of the rule of law".

One of the principal problems of the law state is a matter of power. According to Soemantri (1992), the most important elements of the law state are 4 (four), namely: 1) That the government in carrying out its duties and obligations must be based on laws or statutory regulations; 2) There is a guarantee of human rights (citizens); 3) There is a division of power within the State; and 4) There is supervision from the judiciary bodies.
The author is of the view that the real form of obligation based on the law or legislation is the existence of clear statutory provisions made by the legislature or parliament with the government to give rise to guarantees of human rights possessed by each citizen, where the implementation is distributed separately by the executive, legislative and judicial so that the role can be supervised by judicial bodies to create legal certainty that is fair to the law.

Before discussing legal certainty, in this case, the author views that the review of access to justice is one thing that is also important as a consequence of a law state that guarantees human rights and legal certainty. Access to justice or known as ROLAX (Winanti et al., 2019) must be able to be spelled out in Indonesian laws and regulations as a country of law as a consequence of the principle of legality, and these laws and regulations are formed by Parliament to ensure legal certainty in the state.

The principle of legality in criminal law has been expressly stated in the provisions of Article 1 of the Criminal Code which in the original language reads "Geen feit is strafbaar and uit kracht van eene daaraan voorafgegane wettelijke strafbepaling", and is interpreted in Indonesian "No act shall be punishable, except under the pre-existing statutory penal provisions of the act itself" (Wirabakti & Rochaeti, 2022). The principle of legality was pointed out by Von Feuerbach (1775 – 1833) in his book in his book lehrbuch despeinlichen rechts, which formulated 3 (three) adagiums, namely: 1) nulla puna sina lege (no criminal without statute); 2) Nula Poena Sina Crimen (No Crime Without Crime); and 3) Nullum crimen sine poena legali (no crime without statutory conviction) (Puspito & Masyhar, 2023).

Lamintang & Lamintang (2022) said that Van Bemmelen in his book Ons Staftrecht thought that Article 1 Paragraph 1 of the Criminal Code had 3 important rules: 1) The criminal law is written in our country; 2) The criminal law cannot punish people for what they did before the law was made; and 3) People should not use similar rides to understand the criminal laws. According to Lamintang & Lamintang (2022), the author believes that bribery in the private sector is a problem for enforcing criminal law in Indonesia because it's not addressed in the law, money or the economy, has suffered because it can't be suspected. People who are guilty of corruption can't be punished because the law isn't strong enough.

This can be seen from the fact of the case that the author has stated in the example of the previous case, that the giving of gifts or bonuses that should be suspected in the
form of bribes to doctors by pharmaceutical factories today cannot be categorized as corruption because the acts are carried out by parties who are domiciled as individuals and private individuals, although in terms of the economy, the state has caused great losses to patients as consumers who need drugs. which is feasible, so that patients with "bribes" received by doctors and hospitals result in patients not getting reasonable drug prices in the sense that there is no certainty from the price of drugs given by doctors or hospitals, patients are also not given proper drugs, it is all a great loss to the country's economy, especially the economy in the health sector.

Likewise for the regulation of scores whose cases are only investigated by Law No. 11/1980 concerning "the criminal act of bribery", even though its influence is very large in the sports economy, where the absence of fair competition (fair play) results in fraudulent acts between clubs which also result in the level of soldering athletes who are not good for the field of sports, and the value of sports competitions is ultimately only regulated by the bribe money that will be received not by the achievements that should be the main principle of sportsmanship.

In the field of state business ventures in SOEs and subsidiaries of SOEs, it also includes being problematic in the application of corruption articles, which are faced with the principle of business judgment rule, with the assumption that SOEs subsidiaries are not stated financial objects, even though there have been stating losses and even a larger state economy occurs because of it, where with losses from SOEs/SOEs subsidiaries, the state must participate replacing in the form of additional injections of funds, and this is a form of state involvement in the participation of 51% share capital, thus state money must also be added again for the losses of SOEs and subsidiaries of SOEs, so, of course, these losses are corruption. However, by prioritizing the Business Judgment Rule (BJR) and not state finances, many cases of SOEs subsidiaries of SOEs are free from corruption, so this does not provide legal uncertainty in sanctioning TIPIKOR against losses experienced by SOEs and subsidiaries of SOEs.

The aforementioned problem is caused by the absence of corruption norms against private sector subjects in the TIPIKOR which can be seen as perpetrators of TIPIKOR against SOEs and subsidiaries of SOEs, as well as other private and private companies.

Another problem, in Indonesia other regulations are equally intersecting and are also economic crimes with unlawful elements whose actions committed are the same as the regulation of unlawful acts in TIPIKOR, such as the existence of Law No.11/1980
concerning "bribery crimes" (Manullang et al., 2022), Law No. 5/1999 concerning "the prohibition of monopolistic practices and unfair business competition" (Hamid et al., 2020), Law No. 8/1995 concerning "the capital market" (Subroto, 2021), whose threat of punishment is very small and does not provide a sense of justice to the state as a victim. As well as Law No. 11/1980 concerning "bribery, the penalty of which is only a maximum of 5 years in prison and a maximum fine of only IDR.15,000,000. - (fifteen million rupiahs), with no obligation to provide compensation for losses arising from acts its bribery" (Waditra et al., 2021).

There are also regulations at the level of ministerial regulations, even only the regulation of the director general who is only able to reach administrative sanctions but cannot provide the value of losses to the people or the state both from state finances and the state economy, this can be seen including the Decree of the Head of the Food and Drug Supervisory Agency (BPOM) No. HK.00.05.3.02706/2002 concerning "Drug Promotion, Pharmaceutical Industry and/or Pharmaceutical Wholesalers" (Mukaddas et al., 2019) which prohibits the provision of bribes or a bonus to the doctor, but there is no heavy penalty that favors the state as a victim, regardless of the consequences of the loss of the state or the economic loss of the country that occurs.

Against certain laws, as the author stated above, such as Law No.8/1995 concerning "the capital market" (Subroto, 2021), Law on Limited Ethics, these laws become a shield to eliminate the value of large losses to the state as victims of this private sector TIPIKOR, by placing the provisions of article 63 paragraph (1) of the Criminal Code as lex specialist derogate lex generalis for the current law. The author's view is that alternatively to remain enforceable by law, these other regulations can be used as alternatives and breakthrough yang baik dalam melakukan pencegahan bribery and embezzlement in private sector corruption, as long as there are no real rules regarding bribery and embezzlement in the private sector.

However, although it can be groundbreaking, the author argues that the series of regulations cannot provide concrete protection to the state and the people as victims and even the regulations cannot at all restore the amount of harm that arises as a result of unlawful acts committed by the perpetrators of bribery and embezzlement of corruption committed by the private sector. The existing regulations do not have an indicator for the recovery of the country's financial/economic losses, so dapat implies luas, yang the impact the state and the people are still always the aggrieved parties.
Regarding the vague norms in Indonesian law, AA OK Mahendra stated "that in the practice of implementing the law, there is still a formulation of norms that give rise to multiple interpretations, and there is a gap between the legislation and its implementing regulations, the number of overlapping regulations both in the center and in the regions" (Hutagalung, 2021), it is further stated: 1) There are still rules of law that are no longer compatible with the development of constitutional and law interests of society; 2) There are law products that are opposed by the relevant interest groups because they are considered not aspirational; 3) The formulation of law provisions is vague, or multi-interpretation; 4) Law products contradict each other, overlapping to create law uncertainty; 5) The implementing regulations of the law are not immediately issued or there is a considerable time gap between the enactment of the law and the issuance of its implementing regulations; 6) The enactment of the amended regulations/amendments through transitional provisions generally reads "At the time of the coming into force of this act, all existing implementing regulations shall remain in force so long as the new provisions under this act have not been issued and so long as they do not conflict with this act"; 7) The granting of statutory testing without regard to the juridical impact arising as a result of the declared material content of paragraphs, articles, and/or parts of the law that do not have binding law force; and 8) It is declared to remain in force so long as the new provisions under this act have not been issued and so long as the regulation does not conflict with this law.

Such a situation raises problems that cannot benefit the state and the people, losses that arise cannot be returned economically, even the state also loses more and more with the continued cost of judicial procedures to seek justice and certainty in the law itself. There is no deterrent effect on corruption perpetrators who come from private actors because the perpetrators are only punished by laws that do not provide a deterrent effect and are not seen as TIPIKOR even though the actions carried out by the perpetrators of corruption are the same.

These two problems, regarding the determination of the subject of non-criminal corruption in bribery in the private sector, as well as the absence of corruption rules for bribery in the private sector as described above, have implications for the non-implementation of Pancasila with the principle of the fifth precept of social justice for all Indonesians which is a principle that is aspired to and wants to be realized in the life of the state this according to the author is in line with the intention of the ratification of
UNCAC 203 with Law No. 7/2006 concerning "Endraction of the Ratification of the United Nations Conventions Against Corruption, 2003" (Hasanah, 2022), but the ratification until now has not all been adopted in the law, even though legal certainty must achieve justice.

The right to justice and many other basic rights have been viewed as a gift that comes from God. This view has emerged since the century renaissance. Thinkers such as Thomas Aquinas and John Locke developed a theory of natural law that viewed man as a subject of law that bore inherent rights from his birth. As this thinking develops, it is believed to be a universal human value (Hill, 2016). Based on this idea, adherents of the theory of natural law believe that the laws made by the ruler must always pay attention to and protect all these rights to achieve law goals including justice. Saint Augustine in the middle ages 354-430 BC said an Unjust Law is Not Law at All, literally meaning that law must contain morals.

Human values are contained in law principles or principles that through the medium of law theory subsequently become a concrete form of regulation or law. The right to be presumed innocent is a principle or principle outlined in the legislation. The TIPIKOR is a concrete form of law that embodies the principle of justice for each individual so that certainty in advance of the law even though in principle is still unable to reach private actors privately. That a law norm contrary to the law becomes not a law as Saint Augustine said (Chroust, 1973). According to Otto (2010), real legal certainty is indeed more juridical in dimension. However, Otto (2010) provides further legal certainty limitations that define legal certainty as the possibility that in certain situations namely: 1) Clear, consistent, and accessible rules are available; 2) The ruling agencies (governments) apply the rules of law consistently and are also submissive and obedient to them; 3) Residents in principle adapt their behavior to the rules; and 4) Independent and impartial judges apply the rules of law consistently as they resolve legal disputes and, Concrete judicial decisions are implemented (Van Apeldoorn; Shidarta, 2006).

The community expects legal certainty because with legal certainty the community will be more orderly. The law is charged with creating legal certainty because its purpose is for the order of society. Certainty is an inseparable feature of the law, especially for unwritten legal norms. Laws without the value of certainty will lose their meaning because they can no longer be used as the behavior does for everyone.
Owusu et al (2019) explain a life of corruption in the public context as an act of administrative corruption with a focus on the activities of individuals who hold control in their position as public officials, policymakers, or employees of the government bureaucracy, over various activities or decisions. With the expansion of the privatization of SOEs and the diversion of activities that have so far been considered to be within the scope of the government's tasks, they are shifting to the private sector with a full or half-full monopoly on the provision of public goods by the private sector, such as medicine, water, electricity, telecoms, oil, sports and so on which result in acts of corruption eventually moving to the private sector outside or in the private sector's working relationship with the public sector, so that the acts of corruption in these two private sectors hurt public interests.

The impact of private sector corruption

Argandoña (2021) defines the corruption-privat to privatize type of corruption that occurs when a manager or employee exercises a certain power or influence over the performance of a function, task, or responsibility within a private organization or corporation that contrary to the duties and responsibilities of his position in a way that harms the company or organization in question and for his benefit or the benefit of another person or organization.

The low quality of the company can reduce the optimal level of investment (Valdovinos et al., 2019). Therefore the impact of corruption committed by the private sector is as follows: 1) The creation/emergence of low-quality companies; 2) The decline in the level of investment of the company; 3) The creation of market competition is not perfect; 4) The emergence of adverse selection in the market and the creation of the lemon market; 5) Declining optimal revenue from the tax sector; 6) Lowering the level of public welfare; 7) Slowing economic growth; 8) The creation of low-quality infrastructure; 9) The creation of low-quality infrastructure; and 10) The creation of state capture corruption.

In some literature (Prakasa & Unggul (2019), the author finds that the meaning of private-sector corruption is defined as private-sector corruption. This can be seen in the explanation of Law No. 7/2006 concerning "the Ratification of the UNCAC of 2003 Letter C chapter II", which reads: 1) Preventive measures containing corruption prevention policies and practices; 2) Corruption prevention agencies; 3) Public sector; 4)
Rules of conduct for public officials; 4) Public procurement and public financial management; and 5) Public reporting.

Actions relating to judicial services and prosecution, private sector, community participation, and measures to prevent money laundering. However, in this paper, the author sees that it is more appropriate to use the meaning of the private sector without being interpreted as private because private meaning is more about the meaning of the actions of legal entities other than the government, such as business entity even though private acts in that sector also have personal actions in the sense of persons with private legal entities. International transparency describes the risk of corruption in the company's activities as follows: "You may argue that steam in the private sector is the same crime as bribery in the public sector because it also violates obligations and trusts and thus is harmful to the interests of both sectors. Thus, the picture above illustrates that bribery in the private sector has consequences and influences similar to bribery carried out by public actors because it reduces and eliminates public trust which in essence also provides benefits for the private interests of the private sector bribery actors from providers (suppliers) who harm customers (customers). Where the act has been seen as a common behavior between the provider, namely the company and the customer either in the form of giving bonuses or unreasonable discounts, so that it harms the public as recipients of services, and it occurs in gratuities in the form of bonuses and discounts received by doctors in marketing medicinal products from pharmaceutical companies, as the author exemplified earlier".

Regulation of private sector corruption in Singapore as a comparison with the regulation in Indonesia

Private sector corruption in Singapore for example, geographically compared to Indonesia, then Singapore is much smaller compared to Indonesia and is classified as a small island country and may be very difficult to see on the world map. Even so, the crime of corruption is a serious concern for the Singapore government, where its seriousness can be seen from the form of regulation of corruption in the country which not only includes corruption in the public sector but also regulates the provisions of corruption in the private sector.

The Prevention of Corruption Act (PCA) as Singapore's Corruption Prevention Act is the cornerstone of corruption-related law enforcement in Singapore. The PCA states that: " any person who shall by himself or by or in conjunction with any other
person: 1) Corruptly solicit or receive, or agree to receive for himself, or any other person; or 2) Corruptly give, promise or offer to any person whether for the benefit of that person or another person, any gratification as an inducement to or reward" (Ikhwan, 2016).

Some examples that can be seen in A Practical Anti-Corruption Guide for Business in Singapore (PACT) uploaded on the CPIB website are cases of fishmongers and cooks (Schembera et al., 2022). In his writing at https://news.detik.com/kolom/d-4602380/memberantas-korupsi-sector-swasta-berkaca-dari-singapura, in his report, Adining (2019) tells of a fish seller named Tau Ee Tiong the owner of a Wealthy Seafood Product, approaching each chef and promising to reward assistance for Wealthy Seafood. Many of the chefs are from famous Chinese restaurants/hotels in Singapore. In a CPIB investigation from February 2006 to August 2009, Tay is said to have paid bribes to 19 chefs ranging from SGD 200 to SGD 24,000. The chef will receive cash from Tay every two to three months. In return, they will continue to order seafood from Tay's company. Finally, Tay Ee Tiong was indicted on 223 counts of corruption and sentenced to 18 months in prison in September 2011 for giving bribes of nearly SGD 1 million and the chefs involved were also convicted of accepting bribes from Tay and received their respective sentences.

From the rules and cases that occurred in Singapore, it can be seen how the corruption law in Singapore has been able to provide legal certainty to the perpetrators of corruption, where corruption in Singapore is based on corruption, the result is not necessarily state finances, while the perpetrators of corruption do not distinguish private actors or public actors so that the criminal responsibility for corruption can be charged to the perpetrators private to private with criminal sanctions of corruption. This means that corruption committed from private to private in Singapore is still categorized as a TIPIKOR because there is only one law that regulates acts in Singapore, namely the PCA as a form of legal certainty.

3 CONCLUSION

Based on the literature review above, the author can conclude that the regulation of private sector bribery as a TIPIKOR in Indonesia is urgently needed to provide legal certainty against corruption acts spread across various rules that do not regulate TIPIKOR. The form of legal uncertainty is reflected in the many regulations that are outside the TIPIKOR law that regulates corruption in the private sector as specified in
UNCAC 2003 but are not seen as TIPIKOR, so these actions are not seen as extraordinary crimes as is the case with corruption. Therefore, it is appropriate that UNCAC 2003, which has been ratified into Law No. 7/2006, all its contents are adopted into the Indonesian TIPIKOR law, both by making a new TIPIKOR law considering the content of Law No. 31/1999 as amended and supplemented by Law No. 20/2001 has not lagged far behind the concept of corruption in the world today, and this is also what the 2003 UNCAC expects.
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