COALRUPTION

Shedding Light on Political Corruption in Indonesia's Coal Mining Sector

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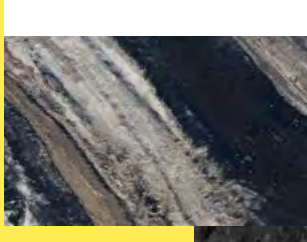

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Coalruption – Shedding Light on Political Corruption in Indonesia's Coal Mining Sector

Executive Summary

Coal: the "cash cow" for political campaigns

Since its rapid expansion in the early years of this century, Indonesia's coal sector has become a main source of funds for political campaigning, both at the national and regional or local levels. Individuals with business interests in the coal industry are playing important roles in the 2019 presidential election, in the campaigns of both Joko Widodo-Ma'ruf Amin and Prabowo Subianto-Sandiaga Uno. Candidates and their campaign teams are deeply connected with the coal sector.

At the regional and local level, decentralisation has led to more elections and more political campaigns which are expensive for candidates as state subsidies are limited. Money from coal mining operations has filled the gap, and become a key source of finance for election candidates. Indonesia's anti-corruption agency, KPK, and civil society groups have reported a sharp increase in the number of mining licenses issued during an election campaign or right after an election.

Coal and political corruption

The coal sector is plagued with commercial corruption, blackmail and thuggery. But the corruption goes beyond this. The requirement for large capital expenditure, government regulation, royalty and tax takes and the dependence on state-run or state-owned infrastructure to bring the coal to market exposes the sector to political corruption too.

Mining companies and their agents have to deal with government officials, which fuels "chumminess" among corporations, bureaucrats and politicians. Political elites also merge business and politics. All are implicated in political corruption. Insufficient segregation of roles and responsibilities has led to further corruption because there is no proper independent oversight of the industry.

Individuals hold powerful political positions despite a serious conflict of interest. The Coordinating Minister of Maritime Affairs, Luhut Binsar Pandjaitan, who has oversight of the mining and energy sector, is a shareholder in a holding company, PT Toba Sejahtra, which has a number of subsidiaries involved in coal mining and coal-fired power plants. Other politically-exposed persons (PEPs) are connected with these businesses, including members of Luhut's family, former ministers and retired generals.

Business opportunities in the coal sector in Indonesia come not only from the country's extensive coal reserves and foreign markets; the sector is generously subsidised, so the corruption involves public money too. Researchers have identified 15 subsidies in Indonesia's coal industry from direct or indirect transfer of liabilities to price support. Half of those subsidies were worth nearly US $1 billion in 2014.

How decentralisation has fuelled corruption

Prior to 1999, mining regulations and permits were run by a centralised administration. Since then, Indonesian government has been decentralised which, while ostensibly good for democracy, has led to even greater corruption. Politicians at regional and local level have been given greater powers over resources in their area, expanding the number of people able to benefit from corrupt practices. Decision-making processes have grown more political and local officials have more discretionary powers to issue permits for mining in exchange for "compensation".

This is led to an explosion in the number of mining permits issued, up from 750 in 2001 to more than 10,000 in 2010, a 13-fold increase, nearly half of which were for coal mining.

This proliferation, coupled with the high profitability of coal and huge public subsidies, has attracted hundreds of politicians or business people with political connections (politically exposed persons) into the industry, further fuelling corruption. On several occasions, overseas companies have sold their stake in mining operators to Indonesian businesses with political connections. National and local elites have used their political power to further their personal interests.

East Kalimantan: the visible evidence of coalruption in Indonesia

East Kalimantan is the heartland of Indonesia's coal industry, and is pockmarked with abandoned coal mines. Under Indonesian law, these pits should be restored and replanted once they are no longer in use. But they are not. Companies routinely flout these regulations, acting with impunity because of deep rooted corruption in the industry.

This corruption allows companies to escape their responsibilities, not only failing to restore abandoned pits but failing even to produce guarantees, as required by law, that they have the funds to do so. Of 856 commercial coal mining license holders registered at the East Kalimantan Office of Mining and Energy, only 96 had deposited the funds needed to restore the mine once operations ceased.

How a few key 'politically exposed persons' steer government policy

Indonesian law requires mining companies to disclose the legal owners as registered with the Ministry of Law and Human Rights. But the true, or beneficial, owners can be hidden from public scrutiny. So a market which appears to be competitive, with multiple companies involved, might in fact be controlled by only a few people, allowing them to act as a cartel by owning or controlling multiple companies under different legal names or business entities.

The corruption is entrenched. It involves not only politically exposed persons, but the political party machine and the military. Tracking the names behind many of the businesses in the coal sector reveals a network of people, linked by family, politics or military ties, all who benefit from the continued growth of the coal sector in mining and coal-fired power plants.

How coalruption is destroying Indonesia

Indonesia has become "the dirty man of Asia" because of its addiction to coal, which is actively promoted by politically exposed persons for their own financial gain. Government plans to reduce coal production in recent years have been over-turned. Instead of falling to 413 million tonnes in 2017, as originally planned, production actually rose to 477 million tonnes.

Coalruption is destroying the well-being of Indonesia. It is contaminating the land of East Kalimantan, sometimes with deadly effects; it is eroding Indonesia's reputation as a place to invest; and it is undermining Indonesian democracy by drawing in businesses, bureaucrats and politicians at all levels of government. The political and financial health of Indonesia requires an end to this corruption but also to the dependence on coal which is feeding it.

Recommendations for action

Several steps are needed to address political corruption in the coal mining sector:

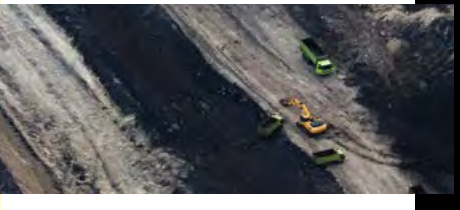
- Stronger law enforcement over coal mining operations. The current weakness is closely related to PEPs' ownership and leadership of coal companies.

- Stronger legal measures to end conflict of interest among PEPs, including stronger safeguards against the risk of collusion and political interference caused by the *"revolving door phenomenon"*, whereby individuals frequently switch between high-level positions in the public and private sectors

- Greater transparency over beneficial ownership in the coal mining business. When the true owners of business entities are hidden, it is impossible for the public to know who controls companies.

- A roadmap to phase out coal mining in Indonesia. Environmental damage impacting human health, unsustainable development and social conflict caused by coal mining is widespread. This roadmap needs to set out a comprehensive energy transition from coal to clean and renewable energy.

01. Introduction – Filling in the Gap



"In the past, we relied on the Nangka River for farming, fishing, and drinking water. After Kutai Energi's mining operations, and the abandoned voids, the water from the river has been muddy and polluted and cannot be used for daily needs, even as a cattle drinking source." *(Rukka, Chair of Maju Bersama Farmer Group, the Nangka River, Teluk Dalam Village, Muara Jawa, Kutai Kartanegara District, East Kalimantan on the disposing of water from the voids directly into the Nangka River without filtering or settling ponds by PT Kutai Energi)*

1.1 Background

East Kalimantan is the heartland of Indonesia's coal mining industry. Thousands of open cast mines are scattered across the region, many of them illegal. Mines continue to be opened while others are abandoned when the coal reserves are exhausted. New mines often lead to the destruction of rain forest, and the way working mines are operated leads to air and water pollution. The environmental damage doesn't end when the mines are exhausted as abandoned mines have proved dangerous, even fatal, for local communities.

Under Indonesian law, mining companies are required to fill in pits that are no longer in use, and to re-plant and restore mining sites. Each stage of the process should be approved by a government agency as part of the initial application for a mining license. Companies are also required to carry out environmental impact assessments, and to submit financial guarantees for reclamation and restoration of mining sites. However, companies routinely flout these regulations. This impunity persists widely in coal mining sites across Indonesia, including in the coal-rich province of East Kalimantan

How coal mine operators evade responsibility

In December 2015, the East Kalimantan Office of Mining and Energy listed 856 commercial coal mining license holders. Of these, only 338 had reclamation guarantee funds in place.[1] Only 96 of these 856 license holders had deposited the post-mining guarantee funds needed to fully restore the mining site.[2] Unlike reclamation funds, these do not need to be deposited in advance, but must in place two years before the permit expires.

[1] Apriando, T. 2017. Who owns Indonesia's deadly abandoned coalmines? *Mongabay*. 25th May 2017 https://news.mongabay.com/2017/05/who-owns-indonesias-deadly-abandoned-coal-mines/

[2] *Ibid*

01.

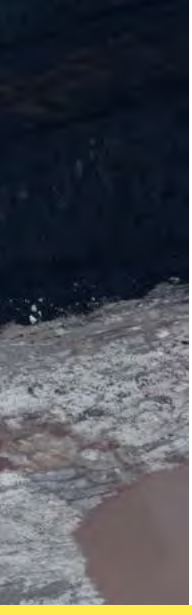
As a consequence, mining companies have failed to restore hundreds of abandoned open-pit coalmines, which now scar the landscape of East Kalimantan with deadly effects. The National Commission on Human Rights found those mine pits left behind by 17 companies in East Kalimantan claimed the lives of 27 people between 2011 and 2016, mostly children and teenagers.[3] By December 2018, the death toll from the mine pits already reached 31.[4] East Kalimantan's Office of Mines and Energy said reports from 81 companies indicated there were 314 former mine pits (voids) in the province as of December 2016.[5] However, a survey conducted by the Office counted more than twice that number when using Landsat images, identifying 632 coalmines transformed into giant puddles. 264 of these voids (42%) were located in Kutai Kartanegara.[6]

So far, no mining company has been prosecuted for either the deaths or the failure to restore the abandoned mine.

How corruption has led to impunity

The impunity which these mining companies enjoy is because of corruption in the mining sector. The anti-corruption organisation Transparency International, in its 2011 *Bribe Payers Survey* [7], identified oil and gas, and mining as the most bribery-prone sectors. Mining's high-value investment and the heavy involvement of government through various regulations have provided opportunities and incentives for corruption. The 2016 OECD *Report on Corruption in the Extractive Value Chain* highlighted that corruption risks may arise at any point in the value chain: from the decision to extract to the revenue-spending phase. The report revealed that most of the corruption cases surveyed in the extractive industry are in the *"awarding of mining, oil and gas rights"*, and *"extraction operations and regulation"* phases (34 out of 59 cases), while the remaining cases are in the *"revenue collection"* phase. The offenses include bribery of foreign officials, embezzlement,

[3] *Ibid*
[4] Yovanda. 2018. Korban di Lubang Tambang Batubara Terus Bertambah, Sampai Kapan? *Mongabay*. 8th November 2018. http://www.mongabay.co.id/2018/11/08/korban-di-lubang-tambang-batubara-terus-bertambah-sampai-kapan/
[5] *Op.Cit.* Apriando, T. 2017
[6] *Ibid*
[7] https://transparency-france.org/wp-content/uploads/2016/04/2011_BPI_EN.pdf



misappropriation and diversion of public funds, abuse of office, trading in influence, favoritism, extortion, bribery of domestic officials, and facilitation payments.

Indonesia's mining sector, especially in the case of coal, is not immune to this. Laode Muhamad Syarif, the Vice Chairman of Indonesia's Corruption Eradication Commission (KPK), has said the mining license issuance process at the local level is plagued by bribery and kickbacks.

Corruption has driven a 13-fold increase in the number of Mining Business Permits (IUP) since 2001, nearly half of them for coal.[8] Decentralization of Indonesian governance in 2001 has fuelled this corruption as leaders at regional and provincial levels were given greater power over the resources in their area. For example, illegal coal exports grew to 90 million tons, worth some US$ 5 billion (equal to IDR 58 trillion), annually.[9] Corruption has also meant many local license holders are able to avoid paying relevant fees, taxes and royalties, including reclamation insurance, post-mining insurance, surety indemnity, and environmental insurance.

How decentralization fuels corruption

Quick returns on investment, high profitability and huge subsidies have attracted politically exposed persons (PEP)[10] into the coal sector. The discretionary power of regional governments has created opportunities for politicians to exploit their position. The most significant development fuelling corruption in the mining sector in general is the decentralization of government functions.[11] Decentralization has made the decision-making processes more political, and increased the discretionary power of local public officials, both of which increase the risk of corruption.

Prior to 1999, mining regulations were run by a centralized administration. Law 22/1999 and subsequently Law 32/2004 delegated much of this authority to the regional governments, including that of the management of mining concessions.[12] Two further reforms gave regional governments the capacity to raise revenue by imposing new taxes and issuing new mining and export permits.[13] In this period, the number of permits increased from 750 permits in 2001 to more than 10,000 in 2010, of which 40% were for coal mining.

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[8] Kumparan. 2017. KPK Beberkan Kekacauan Pertambangan Batu Bara. 8th June 2017. *Kumparan.* <https://kumparan.com/muhamad-rizki/kpk-beberkan-kekacauan-pertambangan-batu-bara>

[9] Institute for Energy Economics and Financial Analysis (IEEFA). 2015. Indonesia Illegal Coal-Trafficking Epidemic requires an Impartial Inquiry. June 2015. http://ieefa.org/indonesias-coal-trafficking-epidemic-requires-an-impartial-inquiry

[10] See section 3.1

[11] Macdonald, K.F. 2017. *The Risk Assessment of Corruption in the Awarding of Mining Permits.* Transparency International Indonesia. Jakarta.

[12] Law 23/2014 on Regional Government that shifts the authority to issue mining concessions from district government to provincial government is expected to improve the granting process of mining concessions and its monitoring. However, the improvement of mining concession management from the law enactment in 2016 has yet to be evident.

[13] Devi *et al;* Gandataruna *et al* in *Op.Cit.* Macdonald, K.F. 2017

Decentralization has also enabled local politicians to exploit the sector as a "cash cow" for their campaigns in local elections (*Pilkada* in Bahasa). Direct elections for local and provincial leaders in Indonesia were held for the first time in 2007 and the most recent polls at this level were in 2018.

Corruption and Indonesia's politics

While this has increased democracy in Indonesia, elections are expensive for candidates. State subsidies for parties are limited, so the money from small-scale coal mining activities has become an important source of political funding for candidates. An incumbent from a ruling political party can generate funds for a political campaign by developing a coal-mining business or issuing coal-mining licenses. Candidates or parties can illicitly collect campaign funds from companies in exchange for future preferential treatment, including the awarding of mining permits. KPK and civil society organizations have reported an abrupt increase in the number of licenses issued during an election period or right after an election.[14] Studies by Indonesia Corruption Watch ICW and the Indonesian Science Board also found a connection between political corruption and the issuing of licenses.[15]

In the Kutai Kartanegara district of East Kalimantan, the former district head Rita Widyasari issued 254 coal mining licenses and was dubbed by the local media *"queen of coal."*[16] By June 2017, there were 625 mining permit holders in the district compared to 1,404 mining permit holders in the entire province.[17] Widyasari was completing her second term in office and preparing her bid to become the next East Kalimantan governor in 2018 when she was named as a corruption suspect by the the Corruption Eradication Commission (KPK) and subsequently arrested and convicted of corruption.

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[14] Nahar; Satu in *Op.Cit.* Macdonald, K.F. 2017
[15] Ansori; Yuntho in *Op.Cit.* Macdonald, K.F. 2017
[16] Jong, H.N. 2017. Queen of coal named corruption suspect in Indonesia. *Mongabay*. 5th October 2017. https://news.mongabay.com/2017/10/queen-of-coal-named-corruption-suspect-in-indonesia/
[17] Ghofar, M. 2017. Kutai Kartanegara miliki izin pertambangan terbanyak. *Antara*. 6th June 2017. <https://kaltim.antaranews.com/berita/38664/kutai-kartanegara-miliki-izin-pertambangan-terbanyak>

The increase in licenses issued during election times is common practice in East Kalimantan, and Widyasari is not alone. Achmad Amins, two-time mayor of Samarinda from 2000-2010, expanded coal mining by issuing 63 licenses from 2007-2008 without proper Environmental Impact Assessments in the run-up to his failed campaign in the 2009 governor election.[18] As observed by JATAM (Mining Advocacy Network), local elections have driven the exponential growth of coal mining in East Kalimantan province.[19] Its study of five districts (Kutai Barat, Kutai Timur, Bulungan, Berau, and Paser Penajam Utara) showed the number of coal mining licenses issued by local government increased significantly ahead of local elections.

1.2 Report Objectives

Despite public awareness of the scale of corruption in the coal-mining sector, there are few reports that provide systematic and in-depth analysis of the Indonesian context. Existing reports on coal mining mostly focus on the negative impact of coal, such as Harrington (2017), Waterkeeper' Aliance and Jatam (2017), Greenpeace (2014) and Jorde (2013) and its sources of finance, among others Jorde (2013) and Scrivener and Lund-Harket (2013), Transparency International Indonesia's recent report helps shed light on the corruption risks that hinder lawful, compliant and ethical awarding of permits in the Indonesian mining sector, but it does not focus on coal nor highlight a specific corruption case in coal mining.[20] The 2017 Publish What You Pay (PWYP) report summarizes the trail of coal mining governance reform initiated by KPK from 2014-2017 without adding new evidence on corruption in the mining sector.[21] The lack of publicly available and comprehensive information on corruption in mining coincides with the limited number of corruption cases that have been legally pursued. So far, the KPK has investigated only three mining sector corruption cases involving government officials.[22]

This report aims to fill the gaps between widespread awareness of corruption and actual recorded cases in coal mining. It focuses on the importance of factors such as gaps in the legal system, discretionary powers and the politicization of decision-making processes, inadequate governance in the mining sector, and opacity in beneficial ownership.

Political corruption in mining not only leads to the misallocation of resources, it also affects the manner in which decisions are made. It implicates chumminess among corporations, bureaucrats and politicians in the wrongdoing. The case of PT Toba Sejahtra, highlighted in this report, aims to provide deeper understanding of the type of corrupt practices in the coal mining sector, the parties involved, and the implications.

[18] Hardjanto, Y.S. and Rahmad, R. 2014. Fokus liputan: Bencana tambang di Samarinda. *Mongabay*. 31st August 2014. <www.mongabay.co.id/2014/08/31/fokus-liputan-bencana-tambang-di-samarinda/>

[19] Hidayat, F. 2013. Izin tambang di Kalimantan Timur terus bertambah. 28th May 2013. <https://nasional.tempo.co/read/483967/izin-tambang-di-kalimantan-timur-terus-bertambah>

[20] *Op.Cit.* Macdonald, K.F. 2017

[21] Abdullah, M (Ed). 2017. *Administration of Coal Permit under Coordination and Supervision of KPK*. Publish What You Pay Indonesia and KPK. Jakarta. .

[22] Interview with Dian Patria, KPK, on October 16, 2017. See Kahfi, K. 2017. KPK names former regent suspect; estimated state losses Rp 2.7t. *The Jakarta Post*. 3rd October 2017 <www.thejakartapost.com/news/2017/10/03/kpk-names-former-regent-suspect-estimated-state-losses-rp-2-7t.html,www.thejakartapost.com/news/2017/07/06 /southeast-sulawesi-governor-detained-for-bribery.html>, and Halim, H. 2015. Ex-PDI-P lawmaker gets 'lenient' sentence for bribery. The Jakarta Post. 24th November 2015 <http://www.thejakartapost.com/news/2015/11/24/ex-pdi-p-lawmaker-gets-lenient-sentence-bribery.html> as background information on the case.

This report aims to give the public a better understanding of the complexity of corruption in this sector, focusing on the systemic collusion between corporations and government, and providing a solid base from which to develop strategic anti-corruption initiatives in Indonesia and shift from coal business as a crony sector to renewable energy.

02. The Frame – Dissecting Corruption in the Mining Sector

"Do not let corruption be a part of Indonesian Culture"
(Mohammad Hatta, the founding father of Indonesia)

2.1 Corruption in state-society relations

Corruption is conventionally understood as *"the abuse of public power for private benefit"*, referring to the private wealth-seeking behavior of someone who represents the state and the public authority; or to the misuse of public goods by public officials for private ends (World Bank in Amundsen 1999).[23] Corruption pits citizens against the state, which is represented by civil servants, politicians, or anyone in a position of authority to allocate rights over (often scarce) public resources in the name of the state.[24] Corruption occurs when these individuals *"misus[e] the public power they are bestowed with for private benefit by accepting money or some other form of reward, and then proceeds to misuse his official powers by returning undue favors"* (Amundsen 1999).

State representatives' involvement in corrupt practices frequently takes the form of political corruption, where the political decision makers systematically abuse, sidestep, ignore, or even tailor laws and regulations to fit their interests. This often takes place at the high levels of the political system.

Corruption in the mining sector

The mining sector is especially vulnerable to political corruption for a number of reasons. The requirement for large capital expenditures; the high-level of government regulation; its high-value commodities; large royalty and tax takes; remoteness of operations; and dependency on local communities.[25] Regulation, licenses and approvals need to be sought from government officials for the

[23] Amundsen, I. 1999. Political Corruption: An Introduction to the Issues. *Chr. Michelsen Institute*. Bergen.

[24] Corruption also exists within and between private businesses, within non-governmental organizations, and between individuals in their personal dealings, without any state agency or state official being involved. There is corruption also in the form of bribing, swindling within and between private businesses, as well as individuals and employees in private firms. This kind of corruption may even have repercussions in the political system, as it can destroy the public morale if there is no effective remedy. However, most definitions of corruption will exclude this intra-societal corruption, and emphasize corruption as a state-society relationship. See Amundsen, I. 1999. *Political Corruption: An Introduction to the Issues.* Chr. Michelsen Institute *Development Studies and Human Rights*. Bergen, Norway.

[25] Ernst & Young. 2010. *Fraud and corruption in mining and metals: Focus on business ethics.* Ernst & Young. London.

exploration, development, construction and operation of a mine. Typically, the government also owns the infrastructure (ports and railway), which means that companies and their agents are constantly dealing with government bodies to get their products to market. The government is also responsible for reviewing environmental and social impact assessments; planning for local and regional development; upholding health and safety standards; and investing in and distributing revenues from mineral development. As a result, officials who have the power to block, delay or frustrate a project may attempt to solicit bribes for the benign exercise of that power.

Using various case studies, the 2016 OECD report *"Corruption in the Extractive Value Chain: Typology of Risks, Mitigation Measures, and Incentives"* showed that corruption risks may arise at any point in the extractive value chain. The report noted large-scale corruption, involving high-level public officials, in the awarding of mining, oil and gas rights, procurement of goods and services, commodity trading, revenue management through natural resource funds, and public spending. This practice might take various forms, although *"trading in influence, political capture or interference, and regulatory capture"* are the dominant tools applied to influence the decision-making process by circumventing or overlooking rules.

Trading in influence is *"the process or act by which a person who has real or apparent influence on the decision making of a public official exchanges this influence for an undue advantage"*.

Political capture or **interference** refers to *"private interests significantly influencing decision-making processes of public officials to their own advantage, such as gaining favorable royalty rates in violation of national laws, or to get permit approvals, even in breach of national laws, or to gain access to commercially sensitive information"*.

Similar to political capture, **regulatory capture** occurs *"when a regulatory agency, created to act in the public interest, furthers the interests of groups that dominate the industry or sector it is charged with regulating"*. Corrupt conduct may be intended to influence regulatory design or enforcement. Corruption associated with regulatory violation is a form of corruption intended to break or disregard existing legislation and regulations.

There are a number of factors which increase the risk of corruption at every stage of the mining process.

Weaknesses in the anti-corruption, legal and judicial systems may undermine governments' capacity to effectively detect, prevent and sanction corruption. Empirical evidence shows that high levels of politicization of decision-making processes and of discretionary power held by both high and lower-ranking public officials are other risk factors. This might be because of weak standards over conflicts of interest, inadequate regulation of lobbying and political campaign financing, and a lack of transparency in the public finances. In particular, there may be inadequate safeguards against the risk of collusion and political interference associated with the *"revolving door phenomenon"*, whereby individuals switch between high-level positions in the public and private sectors. Poor governance in the sector is another risk factor.

The governance of the mining sector often suffers from insufficient segregation of roles and responsibilities. In many instances, state-owned companies were found to be acting both as the administrator and regulator of the sector.

The increasing complexity of corruption patterns makes it harder to tackle. Corruption can hide behind multi-layered structures across various jurisdictions involving shell companies and corporate vehicles used to channel or disguise corrupt payments and distance the corrupt agent from the crime. The lack of access to adequate information on these corporate structures, including on beneficial ownership information, is one of the biggest corruption risk factors.

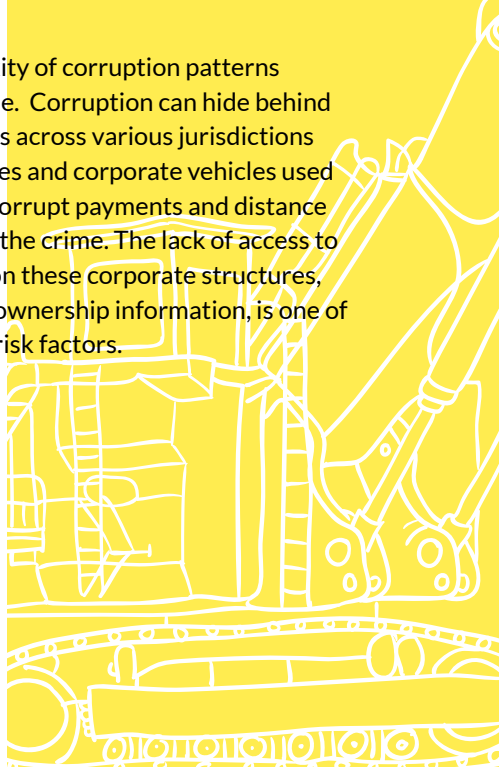

Figure 1.
Extractive industry/mining value chain. Corruption is possible in each of these stages.
Source: *Resource Governance Institute in OECD (2016)*

2.2 Assessing corruption risk in Indonesia

In Indonesia, these risks of corruption are real and have significant impacts. Transparency International Indonesia's latest report assesses a total of 35 corruption risks. It finds that 86% of these risks are very likely to happen and / or will have severe impacts.[26] Most of the very high-level risks appear to be associated with the way mining permits are awarded, and the determination of mining areas. The largest risk of corruption came from vulnerabilities in the awarding process (54%), followed by the risk related to practices within the awarding process (20%). It suggests that the mining sector is more prone to political corruption than bureaucratic corruption.

This political corruption risk is amplified by opacity on beneficial ownership in Indonesia. When the true owners of business entities are unknown, the public is left in the dark about who controls companies' decision-making. The law currently only requires mining companies to disclose legal owners as registered with the Ministry of Law and Human Rights.

Who are the true owners?

While the market may appear to be competitive with multiple companies, in fact there might be only a few people who control them. Hiding the beneficial ownership allows business owners to act as a monopoly or cartel by owning and controlling multiple companies under different legal names or business entities. It also makes it harder to prevent conflicts of interest. This could mean, for example, that an ostensibly open bidding process ends up favoring companies in which public officials or their affiliates have a stake, by corruptly limiting who can bid.

[26] *Op.Cit.* Macdonald, K.F. 2017

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Another example is manipulation of "local content" policy, when a bidding process may require the formation of consortia or joint ventures between a foreign company and a local firm (or a businessperson) or state-owned enterprise. The requirement to form a joint venture with a local partner can be used to favor companies owned by, or connected to, public officials to serve politicians' interests.

Although several regulators in Indonesia insist on the disclosure of beneficial ownership, it is not required in all sectors.[27] There are issues including the appropriate definition of beneficial ownership and information collection and it has proved difficult to develop a database of beneficial ownership in Indonesia.[28] Vital registries, such as the law administration system, does not include the disclosure of beneficial ownership.

Currently, there is no regulation that explicitly requires companies in the extractive industries to disclose who their beneficial owners are. Companies are only required to name the board of directors and shareholders (legal owners). Oil and gas mining regulations (Government Regulation No. 35/2004) also only require disclosure of whether a company controls, or is controlled by, another company.

The nature of coal sector that requires close connection between business and government along with Indonesia's weak regulatory frameworks creates political and systematic other than bureaucratic corruption, in the forms of trading of influence, political capture and regulatory capture. It is also difficult to identify conflict of interest involving key decision makers in the opacity of beneficial ownership regulation.

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[27] Regulations in financial markets and banking sectors have already required the disclosure of beneficial ownership within their policies. For example, Bank Indonesia (BI) in BI Regulation No. 14/27/PBI/2012 regulated the requirements for banks to request beneficial ownership information of an account holder, as well as the requirement to have customer due diligence (CDD) procedures. Indonesian Financial Services Authority (OJK) also applies the disclosure of the BO information in its regulation in POJK 22/POJK.04/2014, regarding to know your customer (KYC) principles in the capital markets. See Pradiptyo, R., Wibisana, P.S., and Hilman, M. 2017. *Final Report: A Roadmap of Beneficiary Ownership Transparency in the Extractive Industries in Indonesia.* Coordinating Ministry of Economic Affairs, Jakarta, Indonesia.

[28] Pradiptyo, R., Wibisana, P.S., and Hilman, M. 2017. *Final Report: A Roadmap of Beneficiary Ownership Transparency in the Extractive Industries in Indonesia.* Coordinating Ministry of Economic Affairs. Jakarta. Indonesia.

03. Corruption in Coal Mining – The Game of Political Exposed Persons

"[In Indonesia, the] extractive, energy, and infrastructure sectors are big boys' games. In order to succeed, you need to know the big boys, keep a good rapport, and use their influence to make, curtail, or even break the rules in your favor. You have to make them your family"
(La Ode Ida, Ombudsman of Republic of Indonesia)

3.1 The game

While the strong reaction to corruption, collusion and nepotism, coupled with a severe economic crisis, were key triggers of the 1998 reform, the role of the "big boys" – or the Politically Exposed Persons – continues to surface in corruption cases in the extractive sector.

A Politically Exposed Person (PEP) is an individual who holds or has held a prominent public role (such as head of state or government, senior politicians, judicial or military officials, senior executives of state-owned enterprises or important political party officials). PEPs can also include family members, as well as personal, social and professional associates).[29] Due to their position, many PEPs are able to abuse or ignore rules, regulations, and policies. The weak oversight and lack of transparency over beneficial ownership (see above) magnifies the risk of corruption when natural resource concessions are awarded.

The "fraud triangle" outlines three factors that are in play when fraud occurs: motivation, rationalization, and opportunity.

The opportunities for corruption in coal mining sector are huge. A country like Indonesia with high addiction to coal – called "the dirty man of Asia" - creates policies that ensure the continuity and profitability of the coal business. The government initially planned to reduce coal production to 413 million tonnes in 2017, from 2016 production plan of 419 million tonnes,[30] before falling to 400

[29] United Nations. 2004. United Nations Convention against Corruption. United Nations. New York.
[30] Anonymous. 2017. Dirty man of Asia deepens addiction to coal. *Asia News Network*. 30th December 2017 http://www.nationmultimedia.com/detail/opinion/30335079

million in 2019. However, coal production in 2017 reached 477 million tonnes, far outstripping 2016 actual production of 434 million tonnes.[31] In this kind of environment, a motivated PEP would have plenty of opportunity to exploit loopholes in the policy process to commit acts of fraud and corruption.

The case of Aburizal Bakrie and Bumi Resources

Aburizal Bakrie –former Golkar Party chairman and current chief patron, former coordinating minister for the economy and for people's welfare – is one PEP active in the coal mining sector. He grabbed the headlines in 2001 when his company, Bumi Resources, with only three years of experience in the oil and mining sector, acquired an 80% stake in PT Arutmin Indonesia, the fourth largest coal producer in the country, from BHP Billiton Australia.[32] In 2003, Bumi Resources bought PT Kaltim Prima Coal (KPC) from Rio Tinto and BP. KPC was the largest coal producer in Indonesia, holding 90,000 hectares of coal mining concession rights in Sangatta, East Kutai district, with an average annual production of 15 million tons.[33]

As part of the Coal Contract of Work between the Indonesian Government and KPC, the company was required to sell to Indonesian shareholders. However, the power struggle between central and provincial governments over who had the right to acquire the equity delayed the divestment process for years, leaving Rio Tinto and BP in limbo.[34] Bumi Resources was able to capitalize on Rio Tinto and BP's frustration with the process by acquiring Sangatta Holdings Ltd. (SHL) and Kalimantan Coal Ltd. (KCL) as KPC shareholders, at a knock-down price of US$ 500 million, some 40% lower than its true value.[35] BP's vice president in Indonesia, Nico Kanter, argued that the greatly reduced price was because circumstances had changed since the company was valued in 2001, particularly the price of coal. Yet the deal cost Rio Tinto and BP a projected profit of US$ 1.2 billion, or US$ 601.01 million each, over the next ten years. Rio Tinto defended the decision to sell its shares by saying it was a transaction to transfer the ownership of Sangatta Holdings Ltd, and Kalimantan Coal Ltd. as the parent companies, not that of KPC, so that Bumi had to continue the divestment process with the government.

Despite a complaint from the provincial government, Bumi's bid was allowed by the Minister of Energy and Mineral Resources, and the national parliament.[36] It would seem that Rio Tinto and BP had acted as guarantors so Bumi could obtain funds from international lenders to finance the acquisition. Bumi got a US$ 404 million loan from Singapore's United Overseas Bank, US$ 318 million from Credit Suisse First Boston, US$ 46 million from Australia's Macquarie Bank Ltd., and US$ 40 million from Leighton Financial.[37]

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[31] *Ibid*
[32] Atmanto, I.A. 2003. Bumi sangata memilih Bumi. *Majalah Gatra, No. 37/IX*, 2nd August 2003 <arsip.gatra.com/2003-07-33/majalah/artikel.php?pil=23&id=32533 and http://www.bumiresources.com/index.php? option=com_ content&task=view&id=8&Itemid=14>
[33] Prasetyawan, W. 2005. Government and Multinationals: Conflict over Economic Resources in East Kalimantan, 1998-2003. *Southeast Asian Studies, Vol. 43, No. 2, September 2005*. Kyoto University, Kyoto.
[34] *Ibid*
[35] *Ibid*
[36] *Ibid*
[37] *Ibid*

Shortly after the 1998 reform, the political landscape changed significantly, with power dispersed from the centre to provincial and regional governments. It appears that BP and Rio Tinto, by siding with Aburizal Bakrie, were hoping to get political protection in two forms.[38] First, the sale of KPC would protect BP and Rio Tinto in the short term from on-going attacks from the East Kalimantan governor and other local political actors, who were using the issue of nationalism and localism against the companies. Second, their interests in Indonesia as a whole would be politically protected in the long term.

Aburizal was a rising star in national politics at that time, having built a solid career in business. He was appointed Coordinating Minister in President Yudhoyono's government from 2004-2009, and became Golkar party chair in 2009. As the ruling party during the Soeharto administration, Golkar was blamed for the economic and political mess that led to the reform process of 1998. However, the party re-grouped and emerged as the second largest party in the 1999 general election, just behind the new popular party, the Indonesian Democratic Party of Struggle (PDI-P). Golkar subsequently won the 2004 general election, having benefitted from the network of offices it had established at the sub-district level during the Soeharto years.

The Churchill vs Nusantara case

The Churchill mining case illustrates the extent of trading in influence and political capture in the coal mining industry.

The case began in 2008 after Churchill, a London-registered mining company, acquired a 75 percent stake in four licenses awarded to the Indonesian Ridlatama Group. Churchill had worked with this Indonesian company in mining coal for export to India and China.[39] In May 2008, it disclosed that it was sitting on a "significant" resource of thermal coal — 2.73 billion tons, making the site the seventh-largest undeveloped coal mining asset in the world, with the potential to generate US$ 700 million-1 billion annually for 20 years.

There was, however, one problem: Churchill's licenses covered an area in East Kutai district once controlled by several companies affiliated with the Nusantara Group, a politically connected Indonesian conglomerate that had allowed its licenses to expire. A big Nusantara shareholder was Prabowo Subianto, a former general and chair of the Gerindra party, who was also a political backer and friend of Isran Noor, former East Kutai district head and current East Kalimantan governor.[40] Soon after Churchill disclosed its discovery, Isran Noor revoked Churchill's licenses and extended the expired licenses held by Nusantara.

When Noor revoked the Churchill-Ridlatama licenses in May 2010, he said the company had carried out illegal logging in a forestry area. He later accused Churchill of forging its mining licenses and holding licenses that overlapped with those previously issued to Nusantara. However, Churchill believed that the overlapping licenses were engineered as part of a *"high-value asset grab"*.[41] The companies fought the case all the way up to Indonesia's Supreme Court. Against a backdrop of claims and counterclaims regarding illegal logging and the authenticity of both parties' documents, the Supreme Court finally ruled against Churchill in April 2012. Churchill turned to international arbitration, a parallel justice system open only to foreign investors in Indonesia.

[38] *Ibid*

[39] Schonhardt, S. 2012. British mining firm sues Indonesia for asset seizure. *The New York Times*. 6th June 2012. <www.nytimes.com/2012/06/07/business/global/british-mining-company-sues-indonesia-over-1-8-billion-coal-project.html>

[40] *Ibid*

[41] *Ibid*

Churchill claimed US$ 2 billion in compensation for the loss of its licenses, but eventually lost the case when the World Bank's International Centre for Settlement of Investment Disputes (ICSID) ruled that Churchill's claim was based on forged documents.[42] Churchill was also ordered to reimburse Indonesia for 75 percent of the US$12.3 million dollars in legal expenses and court fees the country had incurred.

The forged documents which cost Churchill the case dated from 2007-2010, and covered the time when Churchill bought 75 percent of Ridlatama Group. They included exploration licenses, survey licenses, spatial analyses and legal and cooperation letters, all purportedly signed by officials from either the East Kutai district or East Kalimantan province. In the view of the international tribunal, Churchill's Indonesian partner Ridlatama had attempted to substantiate its claim to the mining concession using crudely forged documents and may have *"benefited from the assistance from an insider to introduce the fabricated documents into [East Kutai district's] databases and archives"*.[43] According to the tribunal, this misconduct by Churchill's local partner, and the company's lack of valid licenses, undermined any right to compensation for the loss of the East Kutai mine.

Although Isran Noor told the media that his friendship with Prabowo Subianto was not the reason he had revoked Churchill's licenses, Churchill believes that the case involved *"a political power play at the regional level"*. [44] Awang Faroek Ishak, former head of East Kutai district and former governor of East Kalimantan, described the situation as *"a major corruption case in our country"* during his testimony in court.[45] According to court transcripts, Ishak said that Isran Noor may have been implicated in the scheme.

The Churchill case throws light on the importance of political connections in Indonesian business and how these can be used corruptly. Churchill's local partner, Ridiatama, exploited its connections with local government officials in forging the documents for the coal mining licenses. But the Nusantara Group proved to have more powerful political connections, or stronger "chumminess". As a result, Churchill's license was revoked and the expired license held by Nusantara was extended.

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[42] Esterman, I. 2016. Lessons from the 2 billion coal mining lawsuit against Indonesia. *Mongabay*. 20th December 2016 < https://news.mongabay.com/2016/12/lessons-from-the-2-billion-coal-mining-lawsuit-against-indonesia/>

[43] *Op.Cit.* Esterman, I. 2016

[44] *Op.Cit.* Schonhardt, S. 2012

[45] *Ibid*

Box 1.
The business of politics in Indonesia

Strategic alliances between regional/local and national elites and PEPs dominate Indonesian business and politics. Decentralization gave district heads and governors the power to issue a range of business permits – everything from land conversion to mining and plantation licenses. Having local government allies in resource-rich regions is an invaluable asset for political-business elites at the national level. On the other hand, local PEPs need political protection to secure their on-going corrupt practices in generating revenue from the natural resource sectors, as well as political backing when they aspire to compete at the higher political level.

The story of Governor Nur Alam shows the symbiotic nature of the relationship. Nur Alam's success in Southeast Sulawesi Province (Sultra) is owed, in part, to his close ties with Hatta Rajasa - former Coordinating Minister for Economic Affairs, PAN (The National Mandate Party) Chairman, and Prabowo's vice presidential candidate. Prior to his political career, Nur Alam was a well known businessman in Sulawesi, with a contracting business, PT. Tamalakindi Puri Perkasa. In 2008, Nur Alam ran a well-funded campaign for the governorship as a candidate for PAN, defeating both Golkar, the incumbent, and the favorite, Ali Mazi. At the time, PAN was not a prominent party in Sultra. During his six years as governor, PAN district heads won almost every district election, turning Southeast Sulawesi into one of the only PAN strongholds in the country. During Hatta's tenure as Minister for Transport (2004-07), Nur Alam's companies won contracts for multiple infrastructure projects across the country, contributing significantly to the expansion of his business.

Source: Warburton (2014)

03.

3.2 The chummy coal sector and influx of PEPs

The chummy coal sector and its strong reliance to government regulations and licences have linked it with politics and political person. As a result, the growth and profitability of coal mining since 2000 has coincided with more PEPs entering the business. There have been a number of cases where overseas companies have sold their stake in mining operators to Indonesian businesses with political connections.[46] A few examples:

- New Hope Mining of Australia sold its stake in Adaro in 2005 to the Rachmat/ Soeryadjaya/Garibaldi families and gave up managerial control of Adaro to its new local owners;
- Samtan of South Korea sold a portion of its majority share to the Sudwikatmono family in 2004.
- Luhut Binsar Pandjaitan, the current Coordinating Minister of Maritime Affairs under the Joko Widodo government, established the PT Toba Sejahtra group in 2004 and acted as majority share holder (99.9%) in a business that includes four coal mining companies under its subsidiary companies, namely Toba Bara Sejahtra and Kutai Energi that hold various concessions in East Kalimantan province.[47]

The exponential growth in Indonesian coal

Indonesia's coal industry has transformed itself from being an unknown, minor player in Asia's coal markets to the world's largest exporter of thermal coal in less than three decades. The take-off period was from 1989 to 1999, when coal production grew at an average annual rate of 30 percent reaching 81 Mt in 1999. Production was focused on Kalimantan rather than Sumatra due to its favorable location close to North Asia's lucrative export markets (Japan, Korea, and Taiwan);

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[46] Lucarelli, B. 2010. The History and Future of Indonesia's Coal Industry: Impact of Politics and Regulatory Framework on Industry Structure and Performance. Working Paper 93, *Program on Energy and Sustainable Development*, Stanford University, Serra Mall, Stanford.

[47] Firmansyah. M.R. 2017. Alasan Luhut jual 90% saham Toba Sejahtra. *Kumparan.* 9th October 2017. <https://kumparan.com/dewi-rachmat-k/alasan-luhut-jual-90-saham-toba-sejahtra#uivSAfKUfi0fxDSI.99>

better transportation and logistical network; and the higher quality of Kalimantan coal compared to Sumatran coal.

The growth was driven by coal exports, which reached 55 Mt in 1999. In 2000-2008 when domestic investors, with government support, gained majority ownership of Indonesia's largest coal producers, Indonesia's coal industry continued to expand by 12 percent a year over this period. In 2005 Indonesia became the largest exporter of thermal coal, with 117 Mt exported.

In 2008, Indonesia's exports had increased to 198 Mt, eclipsing Australian thermal coal exports of 115 Mt. The boom continued over the following years, driven by surging demand from China and India.[48] Indonesia's coal output grew by 68 percent over the period, from 291 Mt in 2009 to 490 Mt in 2013. Most of the supply growth served the export market. Exports surged from 233 Mt to 424 Mt, with China and India taking almost 90 percent of the increased output, while only about 4 percent was destined for domestic consumption. In a relatively short time, the Indonesian coal industry has become a major player in the seaborne thermal coal market in Asia, accounting for half of Asian thermal coal imports.[49]

While it appears that this growth is because of the availability of low-cost mines close to ports and Indonesia's advantageous geographic location, research from Attwood *et al* (2017) says that it has actually been driven by subsidies. Their report identifies fifteen subsidies to Indonesia's coal industry in the forms of direct and indirect transfer of liabilities, government revenue foregone, provision of goods and services below market value, and income or price support.[50] They calculate that just seven of those policies were worth IDR 12.4 trillion (US$ 946 million) in 2014, while in 2015, subsidies to coal production were estimated to be worth approximately IDR 8.5 trillion (US$ 644 million).

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[48] Cornot-Gandolphe, S. 2017. *Indonesia's Electricity Demand and the Coal Sector: Export or meet domestic demand?* Oxford Institute for Energy Studies, Oxford.

[49] *Ibid*

[50] Attwood, C *et al.* 2017. *Financial Supports for Coal and Renewables in Indonesia; GSI Report*. The International Institute for Sustainable Development. Winnipeg, Manitoba.

Box 2.
Some PEPs behind the coal

The Indonesian coal industry is fragmented with only a few big producers and many small players that own coal mine concessions mainly in Sumatra and Kalimantan. The six largest coal producers in Indonesia are Bumi Resources (Kaltim Prima Coal and Arutmin Indonesia), Adaro Energy, Kideco Jaya Agung, ITM, Berau Coal and Tambang Batubara Bukit Asam, or Bukit Asam. Together they accounted for slightly more than 50 percent of Indonesian production in 2015. It is common practice for coal mining businesses, both at the local and national level, to bring PEPs into their corporation. A closer look at major coal mining businesses operating in East Kalimantan reveal the involvement of PEPs from various background, such as:

- **Sandiaga Salahudin Uno** (Adaro Energy, shareholder), - Jakarta deputy governor (2017-2018), vice presidential candidate in the 2019 presidential election, former Gerindra Party's deputy chief patron
- **Raden Pardede** (Adaro Energy, Independent Commissioner) - Deputy Coordinator of the Assistance Team to the Minister of Finance, Republic of Indonesia (2000-2004); Chief of Financing for Indonesian Infrastructure Development (2004-2005); Special Staff of Coordinating Minister for the Economy (2004-2005); Vice President Director of State-owned Asset Management Company (2004-2008)
- **Theodore Permadi Rahmat** (Adaro Energy, Vice President Commissioner) – National Economic Board (1999-2000)
- **Lieutenant Colonel Army (Ret) Palgunadi Tatit Setyawan** (Adaro Energy, Independent Commissioner) - President Commissioner for PT Jakarta Propertindo (2010-2013)
- **DR. H. Darmono, S.H., M.M** (Berau Coal, Commissioner) - Deputy Attorney General of the Republic of Indonesia (2009-2013); Acting Attorney General of the Republic of Indonesia (2010)
- **Admiral (Ret) DR. Marsetio** (Berau Coal, Independent Commissioner) - Head of Indonesian Navy (2012-2014)

Source: Directorate General of Legal Administration, Ministry of Law and Human Rights (2018); Cornot-Gandolphe (2018)

04. Toba Sejahtra – A General in the midst of East Kalimantan's Political Corruption

"Political corruption that plagues the coal mining business is ecologically destructive. The corrupt are only seeking (resources) for rent and power, while ignoring the ecological impact. Corruption must be understood beyond bribery. Public policy that politically motivates and causes environmental destruction, as well as creating financial loss to the government, is also corruption"
(W. Riawan Tjandra, Atma Jaya University Yogyakarta)

4.1 East Kalimantan political corruption map: new landscape, old structure

Political corruption is a long-lasting practice in East Kalimantan. National and local politicians merge business and politics for their own interests, benefited from the province's rich natural resources.

On September 26, 2017, the anti-corruption agency KPK named Rita Widyasari, the regent of Kutai Kartanegara district in East Kalimantan, as a suspect for allegedly receiving unlawful gifts in her position as regent.[51] She was accused of accepting an IDR 6 billion (US$ 442,000) bribe from Hari Susanto Gun, CEO of oil palm grower PT Sawit Golden Prima, in 2010 in exchange for an oil palm plantation permit.[52] KPK also detained Widyasari's colleague, Khairudin, who is the head of the Kutai Kartanegara chapter of the National Committee of Indonesian Youth (KNPI). The agency plans to examine Widyasari's personal assets, which grew almost tenfold from 2011, the year after she became district chief, to 2015, when she ran for re-election and declared total assets of IDR 236.7 billion. On July 6, 2018, the Jakarta Corruption Court sentenced Rita to 10 years in prison for accepting bribery from various projects.[53]

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[51] Andri, N. 2017. Kutai Kartanegara regent named bribery suspect. *The Jakarta Post*. 26th September 2017 <http://www.thejakartapost.com/news/2017/09/26/kutai-kartanegara-regent-named-bribery-suspect.html>

[52] Jong, H. N. 2017. 'Queen of Coal' named corruption suspect in Indonesia. *Mongabay*. 5th October 2017. <https://news.mongabay.com/2017/10/queen-of-coal-named-corruption-suspect-in-indonesia/>

[53] New Desk, 2018. Kutai Kartanegara regent sentenced to 10 years for graft, *The Jakarta Post*, 7th July 2018. <http://www.thejakartapost.com/news/2018/07/07/kutai-kartanegara-regent-sentenced-to-10-years-for-graft.html>

Widyasari is not the first local PEP in East Kalimantan implicated in a corruption case. Syaukani Hasan Rais, her father and former two-time district head of Kutai Kartanegara, was found guilty on four corruption charges that cost the state IDR 120 billion. Syaukani was found guilty in early 2008 and sentenced to six years imprisonment. This verdict was upheld on appeal and sentence was imposed despite his attempt to return the embezzled money.[54]

During the decentralization in Indonesia, corruption cases in East Kalimantan came to public attention, particularly cases of corruption involving members of parliament as well as regional heads and deputy regional heads.[55] The pervasiveness of corruption in East Kalimantan has been linked to the management and exploitation of the province's natural resources, including coal. Most of the cases have involved the higher levels in the bureaucracy and parliament. The main motivation behind financial misappropriation seems to have been financing campaigns, (as highlighted above), with the elites under pressure to financially repay the political debt owed to their supporters.[56] The financial misappropriation often involves the embezzlement of funds allocated to public projects, with officials soliciting bribes from business people. In practice, corruption, collusion and nepotism occur at all stages of a project: tendering, recruitment, promotion, budgeting and lawmaking.[57]

Corruption is ingrained in the social fabric of East Kalimantan. KPK ranked East Kalimantan in ninth out of ten provinces with most corruption cases in 2015, one position above South Sumatra province.[58] It is deeprooted, and dates back to the Soeharto years, when institutions which facilitate the corruption were created. These institutional arrangements were deeply associated with the military and the ruling political party at that time, Golkar.[59]

How regional politicians merge business and politics

The role of the military and Golkar persists as both the old and new elites compete to capitalize on the new post-Soeharto institutions for their own benefit. The former East Kalimantan governor Suwarna Abdul Fatah, for example, spent his career mainly within the military, until he entered political life as the deputy governor in 1994.[60] In 1998, he was appointed governor with political support mainly from the military, and later on from Golkar and PDI-P (The Indonesian Democratic Party of Struggle).

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[54] Evaquarta, R. 2008. Business and Political Actor Relationship in Indonesia's Local Autonomy Project: A Comparative Study on Batam City and Kutai Kartanegara Regency. *Paper to the 17th Biennial Conference of the Asian Studies Association of Australia in Melbourne 1-3 July 2008.* Department of Government & International Relations. The University of Sydney. Sydney.

[55] Diah, A.M. 2017. *The Politics of Patronage in Intergovernmental Financial Transfer: The Role of Local Elites in East Kalimantan Province, Indonesia*. Dissertation. College of Arts and Education, Victoria University Melbourne, Australia

[56] Mynt in *Op. Cit.* Diah, A.M. 2017

[57] Farouk and Oetomo in *Op. Cit.* Diah, A.M. 2017

[58] Indopress. 2016. Jawa Barat Provinsi Terkorup. *Indopress.* 23rd November 2016 <https://www.indopress.id/article/nasional/jawa-barat-provinsi-terkorup-se-indonesia>

[59] Robison in Aspinall, E. and van Klinken, G. 2011. The state and illegality in Indonesia. In The state and illegality in Indonesia (eds E. Aspinall and G. van Klinken), Ch 1, pp. 1-28. KITLV Press, Leiden.

[60] *Op. Cit.* Prasetyawan, W. 2005

Another – and more sophisticated – example is Syaukani Hasan Rais in Kutai Kartanegara. Syaukani began his career as a schoolteacher and local bureaucrat, but came to dominate local politics through his position as chair of the Association of Districts in Indonesia (APKASI) and the head of the East Kalimantan Golkar Office to dominate local politics. He leveraged his position as the head of the local Golkar Office after the fall of Suharto to first become speaker of the local parliament and then the district head. He used his position to dispense favours through infrastructure project appointments and business licensing, involving the bureaucracy and law enforcement agencies, in order to keep them close.[61] With Golkar's domination of the local legislature, he was able to 'streamline' policy-making, particularly in annual budget plans and local development planning codes. Consequently, there was extensive embezzlement of funds earmarked for local development projects, involving officials from various district institutions including the local parliament, which were deeply entangled in Syaukani's web of patronage.

The mining sector, which is the largest contributor to Kutai Kartanegara's revenue, was a major target for Syaukani and his cronies. Annual reports on mining licences issued between 2001 and 2006 show a dramatic increase in the number of licenses issued just before local elections in June 2005, allegedly to fund the campaign that secured Syaukani's election victory.[62]

The IDR 3.14 billion earned from coal mining licenses in 2004 and 2005 alone is still only part of the picture. An additional production tax was imposed of US$ 0.50 for each ton of coal mined. As coal production in 2006 reached more than 13 million metric tons, this tax should have delivered IDR 70 billion to the local exchequer. Yet projected taxation revenue between 2005 and 2010 was less than IDR10 billion.[63] The regional government had been strangely relaxed when it came to the mining tax. According to one member of the local parliament, the district administration failed to deliver a single report on revenue from the mining tax since 2001 with funds instead diverted to 'extra' incentives paid by mining entrepreneurs to officials who helped them avoid their obligations.[64]

Rita Widyasari inherited her father's web of patronage when she took office in 2010. The web worked hard to ensure that she won the 2010 local election with a landslide victory.[65] The web subsequently transformed into a shadowy structure behind Widyasari's administration known as "Tim 11" (Team of Eleven) after she became head of district. It influences her decisions on issues like budget allocation, local government appointments, local development

[61] *Op. Cit.* Evaquarta, R. 2008
[62] *Ibid*
[63] *Ibid*
[64] *Ibid*
[65] Iskandar. 2010. RIta Dinyatakan Memenangkan Pilkada Kukar. *Antara.* 16th May 2010. <kaltim.antaranews.com/berita/3047/rita-dinyatakan-memenangkan-pilkada-kukar>

projects, tenders and goods procurement, and the issuing of local government licenses and permits.[66] The team – which represents Syaukani's old cronies and Widyasari's direct appointees – come from various backgrounds As described by Vice Chairman of KPK – Basaria Panjaitan - the team play the brokerage role in the bribery and gratification process from investor/businessman to Rita related to issuance of license from local government, as well as embezzlement of public fund from various local development projects.[67] Khairudin (ex member of local parliament/Golkar's youth organization) is the mastermind of the team and coordinates the role of other team members, including collecting money from bribery and embezzlement activities.

Rita Widyasari has also built strategic alliances with national level elites using her father's network in Golkar party. After her rise to power, she rapidly developed a good rapport with two prominent national Golkar officials from Aburizal Bakrie's block, namely Azis Syamsudin and Idrus Marham.[68] Widyasari's choice for strategic allies cannot be separated from her shared interest with Aburizal in coal mining. Aburizal has significant coal mining investments in East Kalimantan through Bumi, in the form KPC, Fajar Bumi Sakti, and Arutmin, while Widyasari is connected to the business through PT Sinar Kumala Naga, a coal mining company in which her mother, Dayang Kartini, is listed as a commissioner and the company's largest shareholder.[69] Dayang Kartini is also listed as a shareholder in two other coal mining companies: PT

[66] Rangga Tranggana. 2027. Siapa "Tim 11" yang dibidik KPK terkait gratifikasi Kukar? *Jurnas*. 28th September 2017 < www.jurnas.com/artikel/22489/Siapa-Tim-11-yang-Dibidik-KPK-Terkait-Gratifikasi-Kukar-/>

[67] Nadlir, M. 2017. KPK Telusuri Peran Tim 11, Pengatur Proyek untuk Bupati Kukar Rita Widyasari. *Kompas*. 29th September 2017 <http://nasional.kompas.com/read/2017/09/29/05553921/kpk-telusuri-peran-tim-11-pengatur-proyek-untuk-bupati-kukar-rita-widyasari>

[68] Amran. 2016. Azis Syamsudin dinilai tidak layak Caketum Golkar. Ini alasannya! *Wartakutim*. 7th May 2016 <wartakutim.co.id/2016/05/07/azis-syamsudin-dinilai-tidak-layak-jadi-caketum-golkar/>

[69] Apriando, T. 2017. Who owns Indonesia's deadly abandoned coal mines? *Mongabay*. 25th May 2017. <news.mongabay.com/2017/05/who-owns-indonesias-deadly-abandoned-coal-mines/>

Lembu Swana Perkasa, and PT Beringin Jaya Abadi. Meanwhile, Widyasari's sister Silvi Agustina is listed as the owner and President-Commissioner of PT Alam Jaya Bara, as well as commissioner of PT Sinar Kumala Naga.

Both Azis Syamsudin and Idrus Marham are no "ordinary messenger boys" from Aburizal; they are hard-core Aburizal loyalists and have high-level positions in Golkar and in the national parliament. Azis is the Head of Budget Commission.[70] Azis is a two-term member of the national parliament from Lampung province who is also head of the Legal and Advocacy team for Golkar's Election Campaign Body. Idrus Marham is a Golkar senior politician, one term national parliament member (2009-2014 period) and Golkar's General Secretary under Aburizal and Setya Novanto chairmanship.[71] His political standing was on the rise as President Joko Widodo appointed him as the Ministry of Social Affairs in the new cabinet shake-up on January 17, 2018.[72] However, his political career possibly came to an end when Idrus was named as a corruption suspect in an embezzlement case related to the development of a coal-powered power plant (PLTU) in Riau and subsequently detained by KPK.[73]

Azis Syamsudin and Idrus Marham used their political leverage to support Widyasari's re-election campaign as district head in 2010 when she had to campaign as independent candidate, against Golkar candidates. Rita Widyasari returned the favor by supporting Azis Syamsudin's candidacy as Golkar's chairman in effort to split the vote for Ade Komaruddin and ensure the victory of Setya Novanto in Golkar's extraordinary congress (Munaslub) on May 14-17, 2016 in Nusadua, Bali.[74] The relationship between Azis Syamsudin and Rita Widyasari has gone beyond politics. Azis appointed her as treasurer of Kosgoro 1957 before his reconciliation with Agung Laksono[75], while Widyasari appointed Azis as commissioner of her mother's coal mining company – Sinar Kumala Naga.[76]

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[70] Prasetia, A. 2017. Gantikan Kahar Muzakir, Azis Syamsuddin Jadi Ketua Banggar DPR. *Detik*. 21st February 2017 <https://news.detik.com/berita/d-3428166/gantikan-kahar-muzakir-azis-syamsuddin-jadi-ketua-banggar-dpr>

[71] Simanjuntak, R.A. 2017. Yorrys Raweyai Tak Ingin Idrus Marham Dipertahankan. *Sindonews*. 18th December 2017 <nasional.sindonews.com/read/1266813/12/yorrys-raweyai-tak-ingin-idrus-marham-dipertahankan-1513600824>

[72] Sihombing, R.A. 2018. Alasan Jokowi Pilih Idrus Marham sebagai Menteri Sosial, *Liputan 6*. 17th January 2018. <http://news.liputan6.com/read/3230088/alasan-jokowi-pilih-idrus-marham-jadi-menteri-sosial>

[73] News Desk. 2018. KPK Detains Former Social Affairs Minister. *The Jakarta Post*. 1st August 2018. <http://www.thejakartapost.com/news/2018/08/31/kpk-detains-former-social-affairs-minister.html>

[74] Firdaus, R.F. 2016. Bupati Kutai Kertanegara dukung Azis Syamsuddin di Munaslub Golkar. *Merdeka*. 15th May 2016 <www.merdeka.com/politik/bupati-kutai-kertanegara-dukung-azis-syamsuddin-di-munaslub-golkar.html>. Aburizal Bakrie and Luhut B. Pandjaitan strategy to use Azis Syamsudin and Indra Bambang Utoyo as vote splitter to support Novanto and hampered Ade Komarudin's possibility to win the election in one round is highlighted by Hamdani, D. 2016. Manuver Luhut menangkan Novanto. *Gatra*. 20th May 2016 <www.gatra.com/fokus-berita-1/201659-manuver-luhut-menangkan-novanto>

[75] Nainggolan, J. 2016. Ini alasan Aziz Syamsuddin pilih Rita Widyasari jadi bendum Kosgoro 1957. *Rakyat Merdeka*. 13th February 2016 <www.rmol.co/read/2016/02/13/235604/Ini-Alasan-Aziz-Syamsuddin-Pilih-Rita-Widyasari-Jadi-Bendum-Kosgoro-1957>

[76] See article of association of PT Sinar Kumala Naga. Directorate General of Legal Administration, Ministry of Law and Human Rights 2018.

4.2 Toba Sejahtra – business, politics, and conflicts of interest

Toba Sejahtra business operations is a perfect example of political corruption and conflict interest in which the merge of business and politics in the coal mining sector causes damaging social and environmental impacts. The Coordinating Minister of Maritime Affairs, Luhut Binsar Pandjaitan, who has oversight of the mining and energy sector is a shareholder of Toba Sejahtra which has a number of subsidiaries involved in coal mining and coal-fired power plants.

Rita Widyasari knows Luhut Binsar Pandjaitan well through long-lasting connection between Luhut and her family. During 2017, prior to her detention, they met twice in Balikpapan in Golkar national leadership meeting (rapimnas) on May 21-23[77]; and in a National-local government coordination meeting (rakor) on July 14.[78] Luhut was also one of the senior Golkar leaders who attended Widyasari's inaugural ceremony as Kutai Kartanegara head of district on June 30, 2010, along with Aburizal Bakrie, and Akbar Tandjung.[79] However, unlike Aburizal, Luhut did not openly endorse Widyasari during her recent bid to head Golkar province branch in 2016 and her 2018 candidacy for East Kalimantan governor.[80] Rita, first and foremost, is Aburizal's loyalist and it seems that other Golkar elite fall in line with this.[81]

Coal mining links Widyasari, Aburizal and Luhut. Aburizal helped Luhut start his coal mining business in 2004.[82] He began his business using the network provided by the sitting Kutai Kartenegara head of district that time– Syaukani Hasan Rais – to set up Adimitra Baratama Nusantara (ABN) as the seed company for PT Toba Sejahtra.[83] Luhut's appearance at Syaukani's second term inaugural ceremony in 2005 indicated their closeness.[84] After Syaukani was forced to step down from local politics in 2006, Luhut continued to secure local government support for his business expansion in Kutai Kartanegara under PT Toba Sejahtra.[85] Widyasari's election as head of the Kutai Kartanegara district in 2010 restored the connection between her family and Luhut, and she went on to issue the Production Operation License (IUP-OP) for Trisensa in 2010,[86] and extend the license of Indomining in 2013.[87]

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[77] Ibrahim, M. 2017. Luhut di Rapimnas Golkar: Pikirkan Rakyat, Jangan Cuma Uang. *Detik*. 21st May 2017 <https://news.detik.com/berita/d-3507451/luhut-di-rapimnas-golkar-pikirkan-rakyat-jangan-cuma-uang>

[78] Gusdut. 2017. Pusat dorong strategi kebijakan diversifikasi sumber pertumbuhan ekonomi daerah. *PPID Kutai Kartanegara*. 19th July 2017 < http://ppid.kutaikartanegarakab.go.id/berita/detail/222>

[79] Rita-Ghufron resmi pimpin Kukar. 30th June 2010 <http://www.kutaikartanegara.com/news.php?id=2941>

[80] Ketua Golkar Kaltim, Rita atau Said Amin? Ical Maunya Mufakat. *Prokal.co*. 13rd March 2016 http://kaltim.prokal.co/read/news/261004-ketua-golkar-kaltim-rita-atau-said-amin-ical-maunya-mufakat/1. Aburizal's support can also be inferred from the final process of Rita's election as East Kalimantan's Golkar chair that took place in Jakarta as told by Idris, A. 2016. Mahyunadi Walk-Out, Rita Sah Nahkodai Partai Golkar Kaltim. 27th August 2016 <http://kliksangatta.com/berita-4576-mahyunadi-walkout-rita-sah-nahkodai-partai-golkar-kaltim.html#page2>

[81] Hartono, B and Kuddu, M.A. 2015. Golkar Sah Dipimpin Aburizal Bakrie, Bupati Ini Langsung Sujud Syukur. *Tribun*. 19th May 2015 <http://kaltim.tribunnews.com/2015/05/19/golkar-sah-dipimpin-aburizal-bakrie-bupati-ini-langsung-sujud-syukur>

[82] Willy. 2016. Pengusaha adalah prajurit. 9th April 2016 <https://luhutpandjaitan.id/id/detil-artikel/28/Pengusaha-adalah-Prajurit>

[83] *Ibid*. See also <http://www.adimitra-baratama.co.id/page/company/about-adimitra.php>

[84] Semarak malam pisah sambut bupati Kukar. 14th July 2005 <http://www.kutaikartanegara.com/news.php?id=276>

[85] Sukirno. 2013. Inilah 16 Perusahaan Milik Luhut Pandjaitan. *Bisnis.com*. 3rd November 2013. <industri.bisnis.com/read/20131103/44/184423/inilah-16-perusahaan-milik-luhut-pandjaitan>

[86] See <http://www.tobabara.com/en/company-overview/corporate-information/subsidiaries/dprofile-pt-trisensa-mineral-utama/>

[87] See <http://www.tobabara.com/en/company-overview/corporate-information/subsidiaries/dprofile-pt-indomining/>

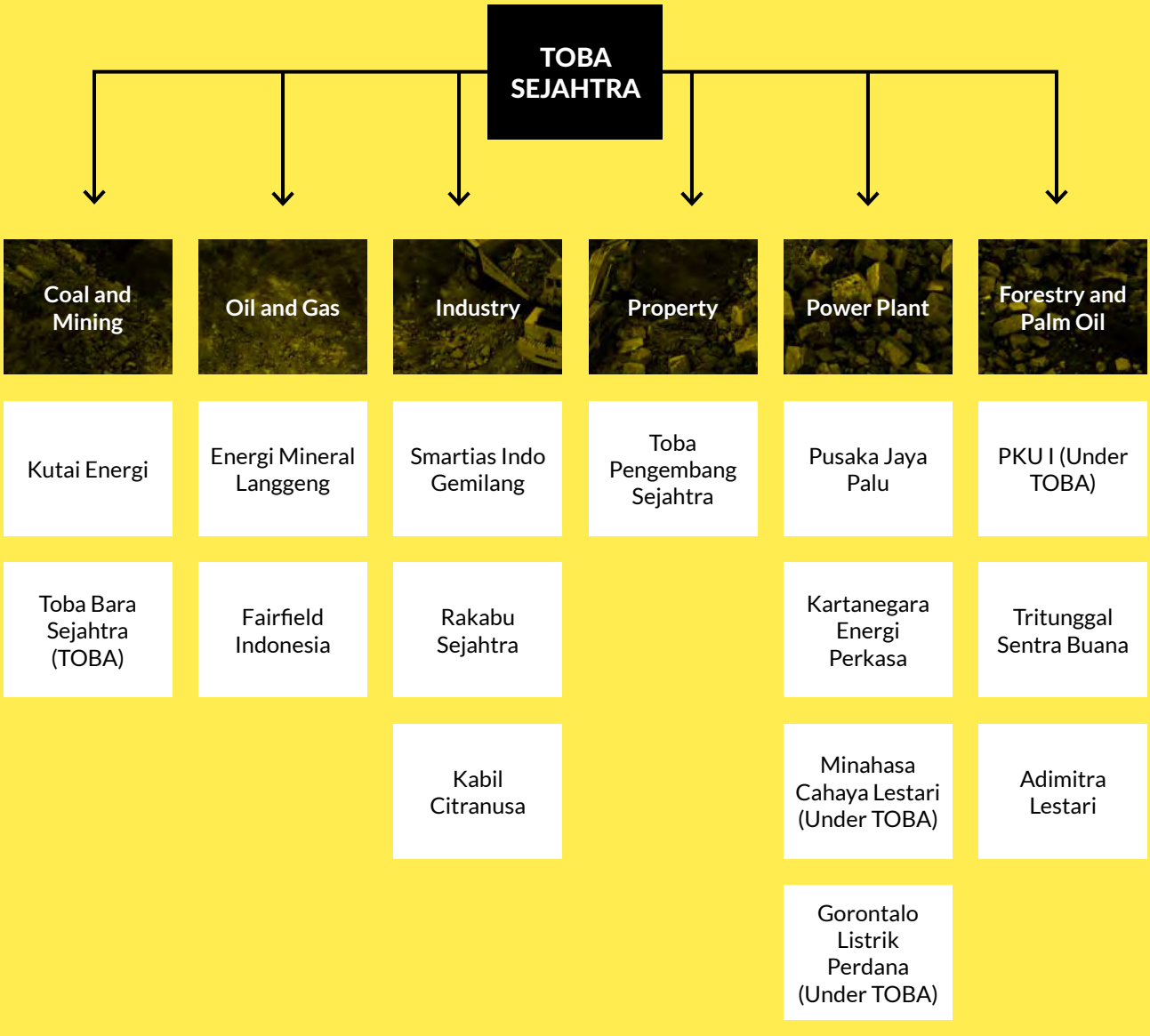

Figure 2.
Map of Toba Sejahtra business group

Source: *http://industri.bisnis.com/read/20131103/44/184423/inilah-16-perusahaan-milik-luhut-pandjaitan*

The business of Toba Sejahtra has flourished over the last fourteen years. It has expanded from a coal mining business into oil and gas; energy/power plants; plantation and forestry; industry and property and infrastructure. There are now 16 companies in the group[88] (Figure 2). Despite its diversification, coal-mining in Kutai Kartanegara remains the core business. Although Kutai Energi is the biggest coal mining concession in the group, the growth of three coal-mining subsidiaries under Toba Bara Sejahtra (TOBA) - ABN, IM, and TMU – are significant. In 2007, TOBA operated its first coal mine, generating revenues of US$ 5 million.[89] In 2008, the company added its second coal mine, with production reaching 800,000 tons, and consequently its revenue rose sharply to US$ 49 million. In 2011, TOBA opened its third coal mine, so that in 2011 the company produced a total of 5.2 million tons of coal. Thanks to the rise in coal prices to US$ 120 per tonne, TOBA earned revenues of US$ 498 million, while its net profit was US$ 58 million.[90] This achievement is extraordinary, considering the equity/net capital of TOBA was only US$ 59 million at the time, so its return on investment was nearly 100%. As TOBA net profit continued to soar until 2014, Luhut's personal wealth increased from IDR 7.1 billion in 2001 to IDR 660 billion in 2015.[91]

04.

A group of PEPs from Luhut's network in the military and bureaucracy are involved in running the coal-mining business. For example, General (Ret) Fachrul Razi serves as Commisioner in PT Toba Sejahtra together with Lieutenant General (Ret) Sumardi, while Lieutenant General (Ret) Suaidi Marasabessy is a Director in Kutai Energi and President Director of TMU, and Lieutenant General (Ret) Sintong Hamonangan Panjaitan is Commissioner for ABN. Luhut recruited Jusman Syafii Djamal as Chief Commissioner in Toba Sejahtra and TOBA while serving as Commissioner in Kutai Energi. Meanwhile, Prof Dr Hamid Awaluddin serves as President Director of Kutai Energi and ABN. Furthermore, Luhut also put Bacelius Ruru, SH, LLM and Dr. Farid Harianto as Independent Commissioner in TOBA. Although Luhut is listed as a shareholder only in Toba Sejahtra, along with his son David Togar Pandjaitan who also serves as Chief Commissioner in Kutai Energi, Toba Sejahtra is a major shareholder in Kutai Energi and TOBA. Luhut also retains a strong grip on the group by appointing his nephew – Pandu Patria Syahrir – as Director in both TOBA and ABN. Figure 3 shows the structure of Luhut's coal-mining business in Kutai Kartanegara and relation among PEPs in the group.

[88] *Op.Cit.* Sukirno. 2013.
[89] Hidayat, T. 2014. Toba Bara Sejahtra: return of coal? *Indonesia Value Investing*. 27th April 2014. <http://www.thpartner.com/2014/04/toba-bara-sejahtra-return-of-coal.html>
[90] *Op.Cit.* Hidayat, T. 2014
[91] Evan. 2016. Pergaulan Luas Luhut Pandjaitan, Harta Hingga Panama Papers. *Tempo*. 25th April 2016 <https://nasional.tempo.co/read/765726/pergaulan-luas-luhut-panjaitan-harta-hingga-panama-papers>

Box 3.
All of Luhut's men

The standing of PEPs who serve in Luhut's coal-mining business is impressive. Their credentials are listed below:

- **David Togar Pandjaitan** – son of Luhut Binsar Pandjaitan
- **Pandu Patria Syahrir** – nephew of Luhut Binsar Pandjaitan, Chair of Indonesia Coal Mining Association 2015-2018 and 2018-2021
- **Fachrul Razi** – Armed Forces Chief of Staff (1998-1999) and Deputy Commander (1999-2000), General Secretary Ministry of Defense (1999)
- **Suaidi Marasabessy** – Armed Forces Chief of Staff (1999-2000)
- **Sintong Hamonangan Panjaitan** – Commander of Armed Forces Special Unit (1985-1987)
- **Sumardi** - Commissioner of PT Pembangunan Perumahan (Persero) Tbk (2015 – now)
- **Jusman Syafii Djamal** – Minister of Transportation (2007-2009); Chief Commissioner PT Telkom Indonesia Tbk (2011) and Garuda Indonesia (2014- now)
- **Hamid Awaluddin** – Minister of Law and Human Rights (2004- 2007), the ambassador of the Republic of Indonesia to the Russian Federation and Belarus (2008-2011)
- **Bacelius Ruru** – Director General for the Development of State-Owned Enterprises (1995 -1998), Secretary of the Ministry of State-Owned Enterprises (2001-2004), President Commissioner of PT Bursa Efek Jakarta (2001-2008), President Commissioner of PT Perusahaan Pengelola Aset (Persero) (2004-2008)
- **Farid Harianto** – Vice Chairman of the Indonesian Bank Restructuring Agency (IBRA) (1998 – 2000), he also was Advisor of Governor of Bank Indonesia, and Special Staff to the Vice President of the Republic of Indonesia

Source: various online sources

The generals in Luhut's business have longstanding connections. All of them, except Suaidi, were Luhut's classmates in AKABRI (Armed Force Academy) class of 1970.[92] Along with Luhut, in March 2014, they formed a group of 22 retired generals from the armed forces and police who "appreciated" Joko Widodo candidacy as President by Megawati Soekarnoputri and PDI-P.[93]

In March 2013, President Yudhoyono had invited Luhut, Fachrul, Sumardi and Suaidi together with 3 other generals from class of 1970 to hear his position on the succession process in the 2014 general election. The group share similar political interests with, and allegiance to, President Joko Widodo.

[92] Siregar, Z. 2013. Jenderal Tarto: Tujuh Jenderal yang Diundang Presiden SBY Berasal dari Satu Perusahaan. *Rakyat merdeka Online*. 14th March 2013 <http://www.rmol.co/read/2013/03/14/102231/Jenderal-Tarto:-Tujuh-Jenderal-yang-Diundang-Presiden-SBY-Berasal-dari-Satu-Perusahaan->

[93] 22 Purnawirawan jendral apresiasi pencapresan Jokowi. *Detik*. 14th March 2014 <https://news.detik.com/berita/2526338/22-purnawirawan-jenderal-apresiasi-pencapresan-jokowi>

Box 4.
TOBA and their power plant business expansion

Toba Sejahtra is not a recent arrival in the power plant business. Under Toba Power, TOBA has been operating one power plant in Palu, Central Sulawesi (PT Pusaka Jaya Palu Power, 2X15 MW to 40MW capacity) since 2007, and one in Senipah, East Kalimantan (PT Kartanegara Energi Perkasa, 2X41 MW to 2X60 MW capacity) since 2012. In 2016, TOBA began to draw plans to expand with the PLTU Sulbagut I project in Gorontalo, North Sulawesi, with 2X50 MW capacity. As stated by their Finance Director, Pandu Patria Syahrir, TOBA would continue the plan in 2018 by doubling its capital expenditure from US$ 65 million to US$ 130 million to complete the Sulbagut I project and preparing another power plant project in Minahasa, North Sulawesi, with 2X50 MW capacity. This shift towards the power plant business is connected to the government's ambitious plan to complete the electrification of the country by 2019, through a fast-track program aiming to add 35 GW of power capacity by 2019. Coal, which currently provides more than half of the electricity generated in the country, is expected to dominate the future mix: 20 GW of the additional capacity is coal-based. The policy offered a lifeline for coal mining industries that up until 2016 faced a price slump in international markets, by creating stronger demand from the domestic market. So Luhut's appointment at this time as acting Minister of Energy and Mineral Resources overseeing pricing policy and price negotiation between power plant industry and PLN (State Electricity Company) was a clear conflict of interest His decision to revise the coal price used by mine mouth power plants was called into question by the public.

Sources:

1. https://www.cnnindonesia.com/ekonomi/20161031183915-92-169195/garap-pltu-perusahaan-luhut-pandjaitan-cari-utang-dolar-as/
2. http://www.bareksa.com/id/text/2017/10/09/ini-alasan-toba-bara-lipat-gandakan-belanja-modal-jadi-rp-175-triliun-di-2018/16914/news
3. http://www.dunia-energi.com/revisi-harga-batu-bara-pltu-mulut-dorong-penuntasan-proyek-35-ribu-mw/

Luhut's subsequent appointment as Coordinating Minister of Maritime and Resources – which include energy and mineral resources – on July 26, 2016, aroused public concern. The potential conflict of interest increased when President Joko Widodo made him acting Minister of Energy and Mineral Resources on August 15, 2016.[94] The concern was justified as Luhut never renunciated his share in Toba Sejahtra. Although Toba Sejahtra sold their majority share in TOBA to Highland Strategic Holding from Singapore Luhut still maintained control of Kutai Energi through Toba Sejahtra. The reason for the sale was to finance TOBA's expansion in the power plant business, and not to address concerns over conflict of interest regarding his new position in Joko Widodo's administration.[95]

TOBA had been experiencing a steady decline in profit in the past few years, which increased concern that he might use his position to benefit his business. In 2012, coal prices began to fall, and TOBA's net profit plummeted to US$ 3.2 million. After a brief recovery in 2013 and 2014, net profits fell 31.80 percent in 2015 (US$ 11.36 million)[96] and further a 75.44 percent in 2016 (US$ 2.79 million).[97] During this time, Luhut was using his position to push for the use of coal to expand electrification in Indonesia and TOBA's business interests in coal-fired power plants grew rapidly

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[94] Sasmito. 2016. Pengamat: Punya Kepentingan, Luhut Jangan Lama-lama Plt Menteri ESDM. *KBR*. 16th August 2016 <http://kbr.id/berita/08 2016/pengamat__punya_kepentingan__luhut_jangan_lama_lama_plt_menteri_esdm/84119.html>

[95] Hartomo, G. 2017. Menko Luhut Jual Saham Toba Bara Rp1 Triliun, Digunakan untuk Apa? *Okezone.com*. 9th October 2017 <https://economy.okezone.com/read/2017/10/09/278/1792017/menko-luhut-jual-saham-toba-bara-rp1-triliun-digunakan-untuk-apa>

[96] Siregar, D. I. 2015. Laba Perusahaan Luhut Pandjaitan Anjlok 31,80%. *Metro TV News*. 4th May 2015 <http://ekonomi.metrotvnews.com/read/2015/05/04/122291/laba-perusahaan-luhut-panjaitan-anjlok-31-80>

[97] Almawadi, I. 2017. Perusahaan Singapura Dapat Bagian Dividen Tunai TOBA Rp6,89 Miliar. *Bareksa*. 26th May 2017 <http://www.bareksa.com/id/text/2017/05/26/perusahaan-singapura-dapat-bagian-dividen-tunai-toba-rp689-miliar/15597/analysis>

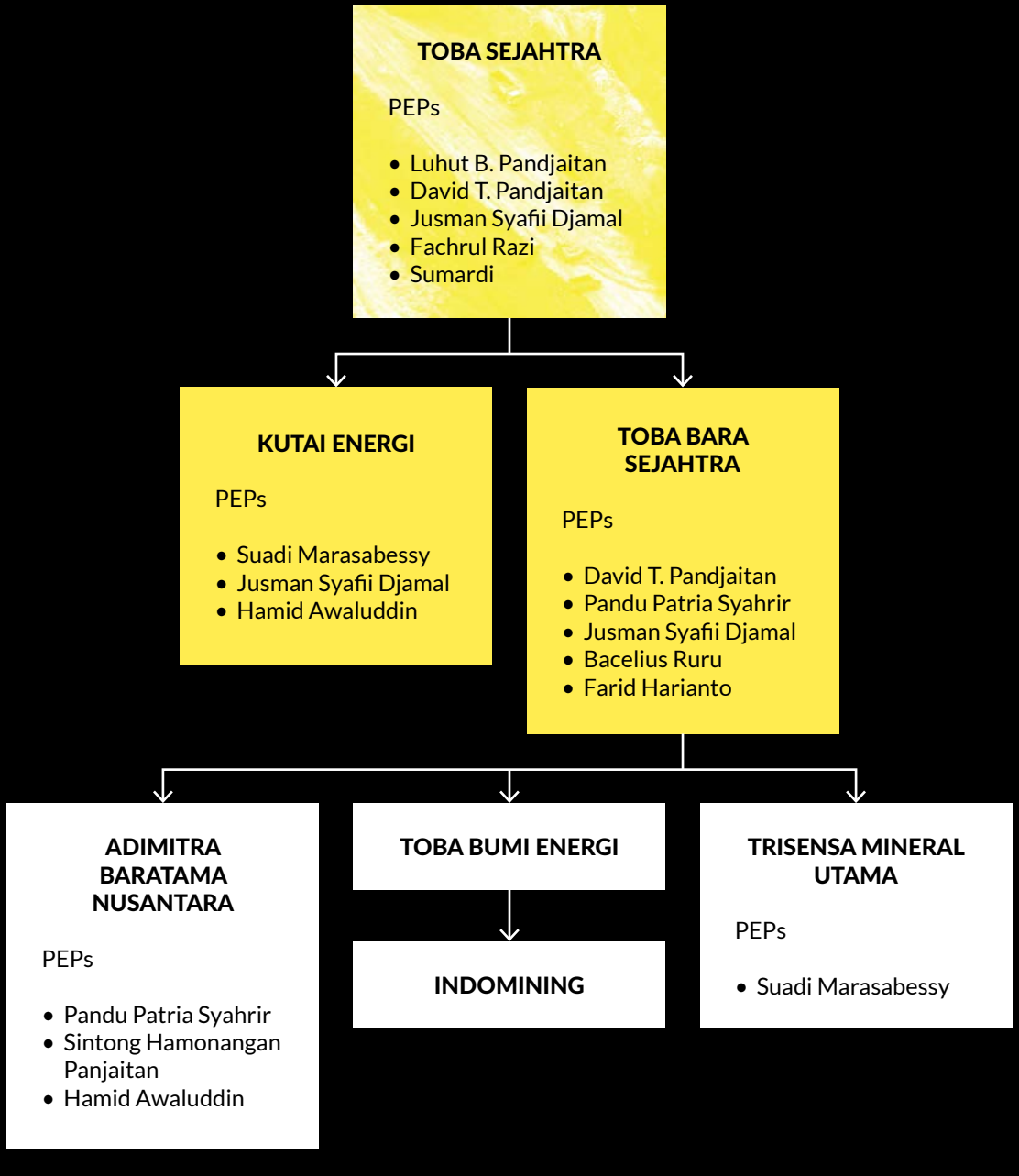

Figure 3.
Map of PEPs in Toba Sejahtra coal-mining business
Source: *Directorate General of Legal Administration, Ministry of Law and Human Rights 2018*

04.

There is a widespread practice in East Kalimantan, including in Kutai Kartenagara, to provide "special treatment and protection" to coal mining businesses owned by active and former military and police officials. The local government shields the businesses from public scrutiny, and excludes them from any law enforcement measures.[98] Tri Giyarsa, Head of Geological Unit, Local Government Energy and Mineral Resources Agency in Kutai Kartanegara, said that *"some of the generals [who own the business] communicate directly with the head of district [in their effort] to influence the decision making process".*[99] Awang Faroek, the current East Kalimantan governor, confirms this, referring to the constant pressure he faces from military and ex-military officials when upholding the law when it comes to the coal mining business.[100]

Luhut is not a typical ex-military official. He's a savvy businessman, with influence in three corridors of power: the military, Golkar Party, and the presidential palace. His close ties to President Joko Widodo differentiate him from other political operators. Luhut was one of the main business partners in the President's furniture business during Joko Widodo's early political career. In 2009, the two formed a joint venture, PT Rakabu Sejahtra, to produce prefabricated wooden doorframes, decks and flooring when Widodo was mayor of Solo. Joko Widodo needed wood supply and Luhut was looking to add value to his timber business. The two developed a strong relationship; Luhut later said *"We started a business together and we became friends and grew to trust each other."*[101] In the current administration, Luhut has more influence than other political party-affiliated coal mining barons, such as Aburizal Bakrie (Bumi Resources-Golkar), Prabowo Subianto (Nusantara Group-Gerindra)[102] and Hary Tanoesoedibjo (MNC Group-Perindo).[103]

Luhut's influence at the local level is both deep and wide. There are numerous examples of how policymaking processes have been tweaked to favour his (business) interests, or regulatory agencies, which are supposed to act in the public interest, further the interests of Luhut's corporation by not enforcing the law or exempting his companies. Toba Sejahtra has been at the centre of allegations of ignoring environmental obligations, causing pollution and land dispute cases, but there has been no action taken.

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[98] Anonymous. 2015. Di Kukar, "Tambang Berbintang" Aman: Tudingan Jatam atas Dokumen IUP yang Ditutupi. *Kaltim Prokal*. 13th May 2015 http://kaltim.prokal.co/read/news/226256-di-kukar-tambang-berbintang-aman

[99] Masbro. 2015. Ada Jenderal di Pertambangan Kukar? *Berita Kaltim*. 20th January 2015. http://newsbalikpapan.com/ada-jenderal-di-pertambangan-kukar.html

[100] Anonymous. 2017. Gubernur Kaltim Ungkap Didatangi Jenderal Pemilik Tambang yang Gusar Izinnya Terancam Dicabut. *Banjarmasin Post*. 18th May 2017. http://banjarmasin.tribunnews.com/2017/05/18/gubernur-kaltim-ungkap-didatangi-jenderal-pemilik-tambang-yang-gusar-izinnya-terancam-dicabut

[101] Wibisono, A. 2014. The Thinking General. *Forbes Indonesia*. 14th November 2014. http://forbesindonesia.com/berita-769-the-thinking-general.html

[102] Tim Viva. 2009. Prabowo Kelola Belasan Perusahaan. *Viva*. 7th May 2009. https://www.viva.co.id/berita/bisnis/55712-prabowo-kelola-belasan-perusahaan

[103] Sari, N.I. 2013. Perusahaan Hary Tanoe Targetkan Produksi Batu Bara 3,5 juta ton. *Merdeka.com*. 2nd May 2013. https://www.merdeka.com/uang/perusahaan-hary-tanoe-targetkan-produksi-batu-bara-35-juta-ton.html

Box 5.
Rakabu Sejahtra – Who is in the Driver's Seat?

The business ties between Luhut and Joko Widodo had been the subject of speculation since Widodo's candidacy as Jakarta's governor. Joko Widodo accepted Luhut's invitation to attend the TOBA *Due Diligence Meeting and Public Expose* event prior to the initial public offering/IPO on June 11, 2012, in Ritz Carlton, Jakarta. Mining business is a common interest that both of them share since Joko Widodo was once the Chair of the Energy and Mining division in the local Chamber of Commerce in Surakarta. But the two men were brought together by their joint venture in a furniture business – PT Rakabu Sejahtra. The enterprise was initially established by Joko Widodo in February 21, 1988, as CV Rakabu. In 2005, when he was elected Surakarta mayor, Joko Widodo handed over the company to his brother Anjas Widjanarko. A major change took place in 2009 when Luhut invested his money in the enterprise and re-named it PT Rakabu Sejahtra. In the joint venture, Toba Sejahtra became the minority shareholder (15,557 shares), while Joko Widodo's oldest son – Gibran Rakabuming Raka – acted as commissioner holding a majority of the shares (16,193 shares) until 2016 when he was replaced by Kaesang Pangarep. Along with his investment, Luhut brought one PEP to the company – Lieutenant General (Ret) Agus Widjojo (former Army Territorial Chief of Staff in 2000) – as chief commissioner. Luhut also placed Bambang Supriyambodo, his confidante in PT Adimitra Lestari, as commissioner and Chief commissioner. The question surrounding Luhut's role in the company was raised in 2013 when one news outlet (Bisnis.com) reported that Rakabu Sejahtra had became a subsidiary of the Toba Sejahtra group under Toba Industry cluster, together with PT Smartias Indo Gemilang and PT Kabil Citranusa. There was no denial from Rakabu Sejahtra or Toba Sejahtra. After a fire that burned down Rakabu Sejahtra's factory in April 2016, Arief Budi Sulistyo, the company's director and Joko Widodo's brother in law, said the family no longer owned the company as it was run by "professionals". In July 22, 2017, Luhut's trusted operator in Toba Sejahtra and TOBA - Jusman Syafii Djamal – took Commissioner position, replacing another of Toba Sejahtra's key staff – Sophi Fauzia.

Source:

1. http://bisnis.liputan6.com/read/2058893/dari-mana-asal-kekayaan-jokowi
2. https://www.antaranews.com/berita/556251/pabrik-mebel-rakabu-sejahtera-milik-keluarga-presiden-jokowi-terbakar
3. https://www.selasar.com/ekonomi/sepak-terjang-joko-widodo-sang-pengusaha-meubel
4. http://agroindonesia.co.id/2016/10/persaingan-orang-jokowi-dan-mantan-menko/
5. industri.bisnis.com/read/20131103/44/184423/inilah-16-perusahaan-milik-luhut-pandjaitan
6. San Sendi Dian Puspita Dewi (2010)
7. Directorate General of Legal Administration, Ministry of Law and Human Rights 2018.

4.2.1 Abandoned open mining pits and water pollution in mining sites

Toba Sejahtra business group is not the exception of coal mining company that flouts regulations by abandoning open mining pits and polluting ground water. Data from 2016 states that there were 23 voids or abandoned pits in Kutai Kartanegara, owned by Kutai Energi (10), Indomining (2), Adimitra Baratama Nusantara (7) and Trisensa Mineral Utama (4). 2017 data showed that 4 out 10 voids in Kutai Energi's concession area had seen no reclamation. At one Kutai Energi void, water from the void drained directly into the Nangka River without any filtering, even though there was a settling pond.

A test on the quality of the water in the void (S 00'46'04.4 E 117'08'00,7) and the Nangka River (S 00'46'27.7" E 117'08'55'3") nearby the voids showed high acidity and high levels of heavy metal contamination. The water quality is lower than the regulatory standards. Table 1 details high concentration of aluminum above the permitted standard, as well as the contamination of vanadium, cobalt, boron, and thalium.

Table 1.
Heavy metal contamination on water in Kutai Energi void and Nangka river

No.	Heavy metal	Standards set by Ministry of Environment decree No 113/2003	Standards set by Ministry of Health regulation No 416/1990	Results from Kutai energi void	Results from Nangka river
1	PH	6-9	6,5 – 8,5	3	4,6
2	Alumunium	-	0,2 mg/L	10,3 mg/L	1,72 mg/L
3	Vanadium	-	-	0,005 mg/L	0,0071 mg/L
4	Chromium	-	0,05 mg/L	0,0089 mg/L	< 0,0005 mg/L
5	Manganese	4 mg/L	0,1 mg/L	4 mg/L	1,2 mg/L
6	Cobalt	-	-	0,146 mg/L	0,0239 mg/L
7	Boron	-	-	<0,2 mg/L	<0,2 mg/L
8	Arsenic	-	0,05 mg/L	0,0026 mg/L	0,0026 mg/L
9	Selenium	-	0,01 mg/L	< 0,005 mg/L	< 0,005 mg/L
10	Iron	7 mg/L	0,3 mg/L	6,75 mg/L	5,51 mg/L
11	Cadmium	-	0,005 mg/L	0,0011 mg/L	< 0,001 mg/L
12	Barium	-	1 mg/L	0,042 mg/L	0,045 mg/L
13	Mercury	-	0,001 mg/L	< 0,001 mg/L	< 0,001 mg/L
14	Lead	-	0,05 mg/L	0,0096 mg/L	< 0,05
15	Thalium	-	-	< 0.005 mg/L	< 0.005 mg/L

Source: *Test result from ALS Laboratory Group in Bogor, West Java*

The results are consistent with previous findings by JATAM (Mining Advocacy Network) and East Kalimantan's Health Laboratory unit (BLUD-UPTD) on May 19, 2015, which identified high water acidity in the Nangka River near the Kutai Energi void, as well as high levels of manganese and iron.[104] JATAM findings rebutted previous statements from the East Kalimantan Environmental Bureau (BLH) on May 11, 2015 that claimed there was no pollution from the mining activities of Kutai Energi in Nangka River.[105] Samples taken by BLH almost a year later on October 2016 finally confirmed the high acidity of water in the Nangka River and indicated severe pollution.[106] But despite this, and the pressure from civil society groups, there have been no legal sanctions on the companies involved, nor orders that they change their business practices.

The adverse impacts are significant. In the past, local communities relied on the Nangka River for farming, fishing, and drinking water. After Kutai Energy's mining operations, and the abandoned voids, the water from the river has been muddy and polluted and cannot be used for daily needs, even as a cattle drinking source. Kutai Energi is accused of disposing of water from the voids directly into the Nangka River without filtering or settling ponds.[107]

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[104] Redaksi. 2017. Koalisi Petani dan Nelayan Tolak di Kukar PT PKU I dan PT Kutai Energi. *Pribumi*. 24th January 2017 http://pribuminews.co.id/2017/01/24/koalisi-petani-dan-nelayan-tolak-di-kukar-pt-pku-i-dan-pt-kutai-energi/

[105] JATAM. 2017. Kembalikan Tanah yang Dirampas oleh PT. Perkebunan Kaltim Utama I (Toba Sejahtra Group) Milik Luhut Binsar Pandjaitan (Menko Bidang Kemaritiman) kepada Petani. 31st January 2017. https://www.jatam.org/2017/01/31/kembalikan-tanah-yang-dirampas-oleh-pt-perkebunan-kaltim-utama-i-toba-sejahtera-group-milik-luhut-binsar-panjaitan-menko-bidang-kemaritiman-kepada-petani/

[106] Setiawan, I. 2016. BLH Kaltim Temukan Sebab Pencemaran Sungai di Kutai Kartanegara. *Kliksendawar.com*. 7th October 2016 http://www.kliksendawar.com/berita-72-blh-kaltim-temukan-sebab-pencemaran-sungai-di-kutai-kartanegara.html

[107] Interview with Rukka, Chair of Maju Bersama Farmer Group, in September 2017.

4.2.2 Multiple cases of land disputes

As well as cases of environmental destruction and pollution, Toba Sejahtra is involved in multiple land disputes. The way local governments (province and district) handle the cases reveals the extent of Luhut's influence in Kutai Kartanegara and East Kalimantan. Here are just three examples:

- *Kutai Energi vs family of (the late) Hamzah bin Cole (Court decision No 527 / Pid.B / 2015 / PN.Trg and No. 03/Pdt.G/2016/PN.Trg).* Kutai Energi was implicated in a case of fake land certificates during its acquisition for the mining site in Desa Batuah, Loa Janan, Kutai Kartanegara. The company bought the land from H. Sapiah bin Mannan who used fake certificates to include land owned by other farmers who did not want to sell the land to Kutai Energi. The State Court decided that H. Sapiah bin Mannan was guilty of fraud and he was imprisoned for a year, but there were no legal repercussions for Kutai Energi who purchased the land illegally. When the family of Hamzah bin Cole asked for compensation by blocking the operation of the company in the disputed land, Kutai Energi sued them for compensation. After the family counter-sued, the Court decided to turn down both cases *(niet ontvankelijke verklaard)* and ruled that the disputed land was still owned by the family of Hamzah bin Cole as the sale had been based on fake certificates. However, the Court ruling did not impose any legal restriction on the company over the status of the land.

- *PKU I vs Kutai Energi (Court decision No 24 /G/2011/PTUN- SMD) and vs Trisensa Mineral Utama and Adimitra Baratama Nusantara (Court decision 18/G/2011 / PTUN- SMD).* PKU I sued Kutai Energi, Trisensa Mineral Utama and Adimitra Baratama Nusantara along with Kutai Kartanegara Head of District because the area granted for the mining operations of those three companies in 2009 and 2010 overlapped with the area for PKU I's plantation, issued in 2004-2008. After Kutai Energi, Trisensa Mineral Utama and Adimitra Baratama Nusantara counter-sued, the Court decided that lawsuits brought by PKU I were not valid since there was ongoing negotiation between parties to resolve the problem. In the meantime, the lawsuit has passed the period allowed by Law to be brought to the Court.

Box 6.
Luhut and the curious case of Kimco Armindo

At the end of 2011 fiscal year, Toba Sejahtra added two further subsidiaries, in addition to Kutai Energi and TOBA, in their production expansion plan for 2012. PT Kimco Armindo and PT Pancaran Surya Abadi had targets to increase annual coal production to 1 million tons each. Suheldi, President Director of Kimco, spoke on behalf of Toba Sejahtra about their plan to acquire four new coal mines in East Kalimantan. However, Kimco and Pancaran were no longer mentioned (as subsidiaries) by any Toba Sejahtra official statement after 2013 fiscal year. A statement from Kimco Armindo on March 30, 2017, said Luhut sold the company to a new owner – PT Pandji Notonegoro – on August 12, 2015, shortly after his appointment as the head of the President's Office in Joko Widodo's administration. Kimco has been operating in East Kalimantan since 2004 and has a poor reputation. In 2017, it was revealed that Kimco had not paid the full reclamation guarantee fund (Jamrek) of around IDR 7 billion, nor had it paid the state levy for the use of a forest area (PNBP-PKH) since 2015. The amount owed was IDR 5.6 billion. The company had also not paidfull salaries, benefits or compensation to its 150 employees for the last three years. The shortfall was IDR 31 billion. However, the report from the State Audit Body (BPK) showed that the problem occurred during 2005-2009, long before the transfer of ownership in 2015. The secrecy surrounding the (ownership transfer) process in 2013-2015, as well as the presence of Lieutenant General (Ret) Sumardi as Commissioner in both Toba Sejahtra and Kimco Armindo, has raised further doubts about the claim that Luhut no longer has any connection with or influence at the company regarding its current problems.

Source:

1. http://www.korankaltim.com/headline/read/9131/lebih-3-tahun-ratusan-karyawan-kimco-tak-gajian
2. http://poskotakaltimnews.com/read/967/pt-kimco-armindo-tidak-pernah-membayar-jamrek
3. http://www.kliktenggarong.com/berita-1732-menunggak-pajak-rp56-miliar-pt-kimco-kok-bisa-nambang.html
4. http://eksplorasi.id/singgung-nama-menteri-luhut-polisi-diminta-netral-dalam-kasus-tambang-kimco-armindo/

- The latest land dispute case is the most interesting one. The dispute involves PKU I (part of TOBA) vs farmer groups in Muara Jawa, Loa Janan, dan Sanga-Sanga (KT Gotong Royong, KT Untung Tuah Bersama, KT Sungai Mukun, KT Berkah Mulia, and KT Mandiri). After the farmer groups won the case against PKU I, TOBA bought the palm oil plantation from Ganda Group in 2013 to ensure the security of the coal mining site of Toba Sejahtra subsidiaries.[108] However, in a separate lawsuit in Jakarta, an alliance of East Kalimantan civil society groups (Jatam Kaltim, Walhi, Pokja 30, Aliansi Masyarakat Adat Nusantara, Prakarsa Borneo, Imapa Unmul, Barisan Advokasi Rakyat, Front Nahdliyyin Kedaulatan SDA Kaltim) and farmer groups in Muara Jawa, Loa Janan, dan Sanga-Sanga won.[109] The Court ruled that PKU I was guilty of illegally obtaining 1,300 hectares of the plantation and revoked the permit issued by the BPN (The National Land Agency) for that area of land. Armed with the Court decision, the farmer groups demanded that PKU I (now owned by TOBA) release the land from the plantation and return it to the villagers.

Box 7.
Local Farmers against PKU 1

Farmers near the Nangka River started to cultivate the land in 1982. Subsequently, they registered their ownership of the land in 1987 and paid land tax in 1997. They farmed rice, fruits and vegetables. Their plants grew well and harvest yields were good.

"Our land was very fertile. We had decent lives from farming. Then the company came and grabbed our land. Local government gave a location permit without checking that local communities already owned the land legally," said Rukka, Chair of Maju Bersama Farming Group in Nangka River, Teluk Dalam Village, Muara Jawa, Kutai Kartanegara District. Kutai Kartanegara head of district Syaukani Rais gave the location permit to PKU 1 in 2004 without consulting local farmers whose land overlapped that given to PKU 1.

In 2007, the local farmers were prevented access to their land, when PKU 1 claimed that it had legal location and business permits issued by the local government. The land owned by the local farmers also overlapped with PT Kutai Energi concession, the subsidiary of PT Toba Sejahtra, which is almost wholly (99 percent) owned by Coordinating Minister for Maritime Affairs Luhut Binsar Pandjaitan.

"We want to continue farming. Give us back our land. If we are stopped from cultivating our own land in exchange for being part of the company's benefit sharing scheme, we will continue to resist. The company is breaking the law. Our land should be removed from the company concession," said Rukka.

Source: Interview with Rukka, Chair of Maju Bersama Farmer Group in September 2017

[108] Aksan, M. 2017. PT PKU 1 Milik Menteri Luhut Bantah Telah Merebut Lahan Warga. *Kliksamarainda.com*. 4th February 2017 http://www.kliksamarinda.com/berita-5009-pt-pku-1-milik-menteri-luhut-bantah-telah-merebut-lahan-warga.html

[109] Redaksi. 2017. Perusahaan Luhut Kalah di PTUN, Bupati Kukar Takut Eksekusi. *Berita Kaltim*. 24th January 2017. http://beritakaltim.co/2017/01/24/perusahaan-luhut-kalah-di-ptun-bupati-kukar-takut-eksekusi/

Despite the court decision, PKU I has shown no sign that it will release the land and hand it back to the farmers. Instead, it offered 80:20 benefit sharing scheme in the palm oil plantation in *"inti-plasma"* arrangement. Both the East Kalimantan governor and Kutai Kartanegara head of district, as well as the local parliament, have chosen "mediation" rather than "law enforcement" to resolve the dispute. Awang Faroek, as example, asked the farmers to accept PKU I's offer and stop their public demonstrations.[110] Rita Widyasari, on the other hand, refused to become involved and asked the farmers and the company to resolve the dispute directly with the local BPN.

[110] Wadi, I. 2017. Atasi Sengketa Lahan, Rita Minta Warga Serahkan Bukti Sertifikat Sah ke BPN Kukar. *Warta Kaltim.* 16th February 2017 https://www.wartakaltim.co/2017/02/16/atasi-sengketa-lahan-rita-minta-warga-serahkan-bukti-sah-ke-bpn-kukar/

Box 8.
TOBA and the Offshore Leaks connection

The Offshore Leaks is a report, published in April 2013, disclosing details of 130,000 offshore accounts. The report came from the US-based International Consortium of Investigative Journalists (ICIJ), a global network of more than 190 journalists in more than 65 countries who collaborate on in-depth investigative stories. The Offshore Leaks database published the names of more than 100,000 offshore entities incorporated through agents Portcullis Trustnet and Commonwealth Trust Limited. On May 9, 2016, ICIJ added more than 200,000 offshore entities from the Panama Papers investigationOther leaked sources include the Paradise Papers.

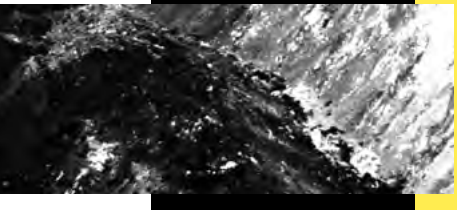
Tempo magazine reported in 2016 that, based on their investigative report, Luhut's name was included in the Panama Papers as a director of Mayfair International Ltd, registered in the Seychelles. The offshore company was established on June 29, 2006 with two companies - PT Persada Inti Energi and PT Buana Inti Energi - as the shareholders, in which Luhut's son was the President Director in 2011. PT Buana Inti Energi is a subsidiary company of PT Toba Sejahtra. There are legitimate uses for offshore companies and trusts, and ICIJ's investigation did not imply law-breaking. But Luhut denied his involvement in Mayfair saying *"I've never heard of it. We never owned Mayfair"*.

However, there are two names in key positions at Toba Sejahtra who are also recorded in the Offshore Leaks database. Dicky Yordan is the Director of TOBA and Chief Commissioner of ABN, acquiring the position after Toba Sejahtra sold their majority share to HSH. He is recorded as a shareholder in two companies in the British Virgin Islands – Pinnacle Lane Offshore Limited and Yeomun Ltd. The other person is Djamal Nasser Atamimi who serves as Comissioner in TOBA with 3 connections to corporations in the Offshore Leaks database – Platinum Capital Venture and MPC Capital Ltd (British Virgin Island) and Delta Advisory Pte Ltd (Singapore). The presence of Dicky and Djamal have cast doubt on Luhut's denial of any ties with offshore shell companies, such as Mayfair International Ltd.

Source:

1. http://www.thejakartapost.com/news/2016/04/25/jokowi-summons-luhut-over-panama-papers-reports.html
2. https://offshoreleaks.icij.org
3. Directorate General of Legal Administration, Ministry of Law and Human Rights 2018

05. Conclusion – Ending Business as Usual



"In the business world, we must closely watch the map for attack. Be aware of (our) logistical support, intelligence power, human resources, and ammunition that we still have. We must be able to measure our strength and the strength of our enemy"
(Luhut Binsar Pandjaitan)

Coal mining is a sector ripe for political corruption. The involvement of political elites both at the national and local level is widespread. Moreover, coal mining and political corruption are two sides of the same coin which is why *The Economist* categorizes coal as one of the crony sectors. As a result, the coal business not only harms the environment and affected communities, it also damages the economy as a whole.

The conduct of Toba Sejahtra illustrates how political corruption in coal mining works. It shows how political corruption at the local level is connected with the more complex dynamics at the national level. Despite Luhut's business savvy, he does not work alone. In the case of Toba Sejahtra, he has been able to exercise influence, escape law enforcement, and defy regulation because of a number of factors: gaps in the judicial system, discretionary power and the high politicisation of decision-making processes, inadequate governance in the coal sector, and opacity in beneficial ownership. These factors combine to keep any conflict of interest unchecked or ignored. Furthermore, a deeply embedded patronage network in East Kalimantan, based on Golkar and the military structure, enables and protects corrupt practices in the coal mining business. The landscape may have changed in the post-Soeharto era, but the structures remain intact.

So, how will the picture look in the future? Two events in 2018 give some clues.

On January 17, 2018, President Joko Widodo appointed Idrus Marham as the new Minister of Social Affairs. As mentioned earlier, Idrus served as Secretary-General under the patronage of former Chairman Aburizal Bakrie. He served from 2009 until 2017, until the end of Setya Novanto's leadership period. The appointment of Idrus Marham and Joko Widodo's other decision to keep Airlangga Hartarto – the Golkar chairperson - in his cabinet indicates the president has pivoted to Golkar, not only for political but also financial support in his reelection campaign.

The second event happened on January 22, 2018, when Airlangga Hartarto announced the new structure of Golkar's national leadership body. Airlangga kept Azis Syamsudin – another Aburizal messenger boy – in the structure.

He also appointed Lodewijk Freidrich Paulus, a former Army Special Forces commander with limited political credentials, as the new General Secretary. It is believed that Lodewijk got the position due to Luhut's support.[111] Although Lodewijk denied this, he confirmed his association with Luhut. In his first media interview after the announcement of the new structure, he said: *"Yes, he [Luhut] was my commander in chief"*.[112]

Recommendations for action

Although Joko Widodo said publicly that *"without proper management, Indonesia's coal reserves will only last for the next 83 years"* and *"demand the responsible use of the resources"*, his political actions and policies show no deviation from business-as-usual.[113] The political corruption in coal mining is rampant, and its impact on people, the environment and the economy should worry all Indonesians. But there will be no significant change unless anti-fraud government agencies, such as KPK and the Ombudsman, watchdog NGOs, and the mass media work together to uncover and take action against corruption in the coal mining business.

Several steps are needed to address political corruption in the coal mining business:

- Strengthen law enforcement over coal mining operations. The current weakness is closely related to the presence of PEPs in coal companies' ownership and leadership.
- Strengthen legal measures to prevent conflict of interest among PEPs, including stronger safeguards against the risk of collusion and political interference caused by the *"revolving door phenomenon"*, whereby individuals frequently switch between high-level positions in the public and private sectors
- Shine a light on beneficial ownership in the coal mining business. When the true owners of business entities are hidden, it is impossible for the public to know who controls companies.
- Develop a roadmap to close down coal mining business operations in Indonesia. Environmental and human impacts, unsustainable development, and social conflict from coal mining are widespread and inevitable. The roadmap needs to set out a comprehensive energy transition from coal to clean and renewable energy.

[111] Prireza, A. 2017. Sekjen Golkar Lodewijk Paulus: Pak Luhut Komandan Saya. *Tempo.co*. 22nd January 2018. https://nasional.tempo.co/read/1052901/sekjen-golkar-lodewijk-paulus-pak-luhut-komandan-sayaa

[112] *Ibid*

[113] Redaksi. 2017. Jokowi: Cadangan Batubara RI Diprediksi Habis 83 Tahun Lagi. *Kumparan*. 10th January 2017. https://kumparan.com/@kumparannews/jokowi-cadangan-batubara-ri-diprediksi-habis-83-tahun-lagi

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COALRUPTION

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