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# **A Comparative Analysis of the Transformation of Corruption Practices in Indonesia and Malaysia**

Adithiya Diar<sup>a</sup>, Tri Imam Munandar<sup>b</sup>, Saidatul Nadia Abd Aziz<sup>c</sup>

<sup>a</sup> Faculty of Law, Universitas Adiwangsa Jambi, Indonesia

<sup>b</sup> Faculty of Law, Universitas Jambi, Indonesia

<sup>c</sup> Faculty of Law, Universiti Kebangsaan Malaysia, Malaysia

 Corresponding Email: [adithiyadiar@unaja.ac.id](mailto:adithiyadiar@unaja.ac.id)

## **Abstract**

This study analyses the dynamics of corruption in Indonesia and Malaysia as developing countries, focusing on how corrupt practices have transformed from individual crimes into institutionalized systems legitimized socially and politically. The main research questions include: (1) how the forms and patterns of corruption evolve within the institutional context of developing states; and (2) how written law in Indonesia and Malaysia contributes to both the preservation and control of corruption. This research employs a socio-legal approach using a comparative normative-sociological analysis of anti-corruption regulations, law enforcement institutions, and political practices in both countries. The findings reveal that Indonesia and Malaysia face a paradox in their anti-corruption frameworks: strong normative structures yet weak implementation due to the dominance of political interests, bureaucratic patronage, and limited institutional independence. The transformation of



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corruption occurs through the institutionalization of patronage and socially accepted gratification practices, embedding corruption within the governance system itself. In conclusion, effective anti-corruption efforts in both countries require structural reforms that reinforce the independence of anti-corruption agencies, promote active participation by civil society, and establish an integrity-based private sector. The law must be liberated from political domination so that it functions not merely as a repressive instrument, but as a means of cultivating public ethics and achieving substantive justice.

### Keywords

Corruption; Institutional Transformation; Legal Weakness; Instrument of Power; Substantive Justice.

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## Introduction

In the concept of a modern state, law should serve as a tool to uphold justice and ensure that power is exercised in a rational manner. Ideally, the law functions to prevent the abuse of power and to protect citizens' rights based on the principles of substantive justice.<sup>1</sup> Rationality in law requires that every norm, regulation, and policy be based on considerations that are reasonable and accountable both morally and socially.<sup>2</sup> However, in many developing countries such as Indonesia and Malaysia, the function of law often deviates from this purpose.<sup>3</sup>

Instead of serving as an instrument of justice, the law has transformed into an administrative tool that justifies injustice and strengthens both political and economic power.<sup>4</sup> This phenomenon demonstrates that law is not solely derived from rationality, but is also shaped by political power, vested interests, and the interplay of social dynamics. This tendency becomes increasingly evident when legal violations occur at various stages of law enforcement, from investigation and inquiry to prosecution and trial, particularly in cases of corruption offences. Legal gaps, unclear or ambiguous formulations of norms, and conflicts between different norms typically cause this situation.

This situation cannot be explained merely as a moral issue or the weakness of individuals. The primary problem lies in the prevailing legal

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<sup>1</sup> Max Weber, 'Categories of Legal Thought', in *The Sociology of Law*, 1st edn, by A. Javier Treviño (Routledge, 2017), <https://doi.org/10.4324/9781315135069-15>.

<sup>2</sup> Juliele Maria Sievers, 'Jørgensen's Dilemma in the Interface Between Legal Positivism and the Natural Law Tradition', in *New Developments in Legal Reasoning and Logic*, ed. Shahid Rahman et al., vol. 23, Logic, Argumentation & Reasoning (Springer International Publishing, 2022), [https://doi.org/10.1007/978-3-030-70084-3\\_16](https://doi.org/10.1007/978-3-030-70084-3_16).

<sup>3</sup> Nilton César Boscaro, 'The Principle of Division of Functions in Jurisdictional Criminal Prosecution: From the Perspective of the Democratic Rule of Law', *Revista Brasileira de Ciências Policiais* 10, no. 2 (2020): 223–66, <https://doi.org/10.31412/rbcp.v10i2.631>.

<sup>4</sup> Fabrizio Esposito, 'On the Fitness between Law and Economics—Or Sunstein between Posner and Calabresi', *Global Jurist* 19, no. 3 (2019): 20180054, <https://doi.org/10.1515/gj-2018-0054>.

perspective, specifically legal positivism. According to this theory, developed by Hans Kelsen, law is strictly separated from morality.<sup>5</sup> In other words, a law is considered valid not because it is, but because it is created by an authorized authority through formal procedures.<sup>6</sup> The validity of the law is determined by its form, not by its moral value or justice.<sup>7</sup> In countries such as Indonesia and Malaysia, which still retain a strong colonial legal heritage, this approach has become deeply entrenched within bureaucratic mechanisms and judicial institutions. The colonial legacy reinforces this tendency.

The Dutch colonial legal system in Indonesia and the English standard law system in Malaysia were designed to support administrative efficiency and compliance with colonial authority. Their purpose was not to achieve social justice but to maintain the political and economic stability of the colonizers. After independence, these legal structures underwent no fundamental changes. Legal power merely shifted from colonial rulers to national elites without altering its hierarchical and bureaucratic character. Consequently, in practice, law continues to function as a tool of social control, favoring state interests over societal interests.

This tendency is clearly evident in the law enforcement practices of Indonesia and Malaysia, which are characterized by formalism and a strong emphasis on proceduralism. Formalistic enforcement emphasizes legal form and adherence to written norms without adequately considering the

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<sup>5</sup> Paul Gragl, 'Kelsen's Metaethics', *Archiv für Rechts- und Sozialphilosophie* 107, no. 4 (2021): 549–67, <https://doi.org/10.25162/arsp-2021-0026>.

<sup>6</sup> Eduardo A. Chia, 'Hart, Raz and Kelsen on the Puzzle of Law's Autonomy', in *Human Dignity and the Autonomy of Law*, ed. José Manuel Aroso Linhares and Manuel Atienza, vol. 7, Law and Visual Jurisprudence (Springer International Publishing, 2022), [https://doi.org/10.1007/978-3-031-14824-8\\_5](https://doi.org/10.1007/978-3-031-14824-8_5).

<sup>7</sup> Michael Pawlik, 'A Geometry of the Total Appearance of Law: Hans Kelsen's Pure Theory of Law', *InDret*, no. 2 (May 2025): 69–105, <https://doi.org/10.31009/InDret.2025.i2.03>.

social, moral, or substantive justice context of a case, resulting in rigidity.<sup>8</sup> Procedural enforcement emphasizes the stages and processes to be followed in accordance with established rules and regulations. In this approach, the law is viewed as absolute, and the primary focus is whether the legal rules have been technically and formally complied with, rather than whether the outcomes are substantively just.<sup>9</sup>

Law enforcement that prioritizes compliance with formal and procedural rules without considering substantive justice reveals several structural and functional weaknesses, particularly in large-scale corruption cases such as Indonesia's e-KTP project and Malaysia's 1MDB scandal. First, the excessive focus on formal and procedural elements diverts attention from the social and moral impacts of violations.<sup>10</sup> In the e-KTP case, the legal resolution emphasized the completeness of documents, administrative evidence, and formal procedural stages. At the same time, the broader impacts on society, such as public losses and eroded trust in institutions, were often underconsidered. Similarly, in the 1MDB case, authorities initially assessed alleged misappropriation of public funds based on procedural compliance rather than the broader scale of harm to citizens and public ethical violations.

Second, this formalistic approach tends to be rigid, making it challenging to adapt the law to complex social and political contexts.<sup>11</sup>

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<sup>8</sup> Sujith Koonan, 'Social Movements and Resistance to Elitism of Groundwater Law: Lessons from the Plachimada Dispute', in *Groundwater Law and Management in India*, ed. Sarfaraz Ahmed Khan et al. (Springer Singapore, 2021), [https://doi.org/10.1007/978-981-16-2617-3\\_5](https://doi.org/10.1007/978-981-16-2617-3_5).

<sup>9</sup> Maryanne Alderson and Dina Perrone, 'Procedural Justice and Police Encounters with Homeless Injecting Drug Users', *Criminology, Criminal Justice Law, & Society* 20, no. 1 (2019): 71–84.

<sup>10</sup> Amanda Graham, 'Legitimacy and Its Critiques – A Cautionary Note', in *Understanding Legitimacy in Criminal Justice*, ed. Liqun Cao (Springer International Publishing, 2022), [https://doi.org/10.1007/978-3-031-17731-6\\_2](https://doi.org/10.1007/978-3-031-17731-6_2).

<sup>11</sup> Raluca Bercea, 'Choosing Form over Content: An Assessment of Domestic Violence Cases before National Courts and the European Court of Human Rights', in *Violence Against Women under European Human Rights Law*, ed. Elena Brodeală et al. (Edward Elgar Publishing, 2024), <https://doi.org/10.4337/9781035346660.00016>.

Large-scale corruption is not merely an administrative violation; it also has wide-ranging political, social, and economic implications. Overemphasis on procedure risks generating technically correct but socially and morally unjust outcomes, thereby eroding public trust in law and law enforcement institutions.

Third, procedural orientation provides opportunities for powerful or influential actors to exploit legal formalities. In both cases, individuals with access to resources or strategic positions could delay processes, manipulate administrative procedures, or focus legal debates on technicalities, thereby impeding substantive accountability for public losses.<sup>12</sup> This highlights the limitations of the formalistic system in addressing structural and large-scale corruption.

Fourth, prioritizing formalities creates a gap between legal certainty and substantive justice.<sup>13</sup> The public may perceive that legal processes have been carried out procedurally, yet real losses, ethical breaches, and moral consequences of corruption remain inadequately addressed. Over time, this can lead to a crisis of legal legitimacy, where the law is viewed merely as a technical administrative tool rather than a means to protect public interests. Fifth, the focus on formalism also undermines the effectiveness of corruption prevention. Since authorities assess violations from a procedural standpoint, imposed sanctions may not correspond to the scale of social and economic damage, thus failing to provide sufficient deterrence to perpetrators and potential offenders.<sup>14</sup>

These limitations underscore that formalistic and procedural law, while providing legal certainty, are insufficient as a means of upholding

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<sup>12</sup> Nicholas Bagley, 'The Procedure Fetish', *SSRN Electronic Journal*, ahead of print, 2019, <https://doi.org/10.2139/ssrn.3347377>.

<sup>13</sup> Isabel Lifante-Vidal, 'Is Legal Certainty a Formal Value?', *Jurisprudence* 11, no. 3 (2020): 456–67, <https://doi.org/10.1080/20403313.2020.1778289>.

<sup>14</sup> Nina Peršak, *Legitimacy and Trust in Criminal Law, Policy and Justice: Norms, Procedures, Outcomes*, 0 edn (Routledge, 2016), <https://doi.org/10.4324/9781315592169>.

substantive justice.<sup>15</sup> Substantive justice requires legal authorities to consider:

1. Social and economic impact: The extent to which corruption or legal violations harm the wider society.
2. Moral accountability: Whether the perpetrators are held ethically responsible for their actions, not merely administratively.
3. Effectiveness of public protection: Whether legal decisions prevent further harm to the public and help restore affected social conditions.

Failure to consider these dimensions results in weak legal legitimacy, as the public may perceive the law merely as a technical instrument prioritizing procedure rather than a means to protect public interests. Consequently, the law loses its substantive function as a tool of justice, and large-scale corruption becomes difficult to prevent effectively. Formalistic law enforcement without attention to substantive justice risks producing decisions that are procedurally valid but unjust for victims and society at large, while simultaneously undermining the credibility of the law as an instrument of social protection.

From this context, the study focuses on three main issues that serve as crucial points for understanding the relationship between law, power, and corruption practices in Indonesia and Malaysia:

First, how corruption practices in Indonesia and Malaysia unfold within the context of developing countries. Corruption in both countries cannot be understood merely as the morally deviant behavior of individuals; it is also a systemic phenomenon embedded within bureaucratic, political, and economic networks. Empirical data indicate

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<sup>15</sup> Álvaro Pérez Ragone, 'El Impacto Del Diálogo Entre Derecho Sustantivo y Derecho Procesal', *Revista Derecho Del Estado*, no. 41 (May 2018): 255–83, <https://doi.org/10.18601/01229893.n41.10>.

that corruption frequently manifests in the form of government project rigging, the misuse of public funds, or structured political-economic transactions. The e-KTP case in Indonesia and the 1MDB scandal in Malaysia demonstrate that corruption not only harms state finances but also has broad social consequences, eroding public trust in state institutions and reinforcing existing structural inequalities. This phenomenon indicates that corruption is rooted in the interaction between institutional weaknesses, political interests, and rigid administrative practices.

Second, the transformation of corruption from a criminal act into an institutionalized system serving as an instrument of power. In many developing countries, including Indonesia and Malaysia, corruption is no longer merely an illegal act by individuals but has become institutionalized as part of the mechanisms of power. Corruption functions as a means to maintain political influence, mobilize economic support, and control the distribution of resources. In this context, corruption serves as a “language of communication” between political and financial elites, where formal legal procedures are often used to conceal practices that harm the public. This phenomenon highlights that corruption can operate in a structured manner, with legal and administrative mechanisms appearing legitimate on paper, even though they substantially undermine the principles of justice and public welfare.

Third, from a socio-legal perspective, how significantly written law contributes to the perpetuation of corruption as a procedurally legitimate practice. Written law emphasizes compliance with form and procedure rather than moral content or substantive justice. In practice, legal authorities bound by procedural logic often assess corruption solely based on the fulfilment of formal elements. This creates a loophole where corruption can occur in a formal, yet legally compliant manner, as formal

legal procedures are satisfied even though their social and moral impacts harm the public. The socio-legal perspective emphasizes that the dominance of written law creates a structure in which the law is no longer an effective instrument of social control but a means to maintain practices that benefit political and economic elites. In other words, corruption is legitimized not because it is just, but because the accompanying formal procedures are observed.

The three issues outlined above form an interconnected analytical framework. Corruption as a systemic phenomenon demonstrates that formal law and administrative bureaucracy alone are insufficient to uphold substantive justice. The transformation of corruption into an institutionalized system underscores that the issue is far more complex than mere individual criminal acts. Meanwhile, the dominance of written law highlights that formal legal mechanisms can, in fact, reinforce corrupt practices, signaling the need for a multidimensional approach that considers social, political, and legal-cultural factors in assessing and addressing this phenomenon. Within this framework, the study can focus on empirical and conceptual analyses linking corruption practices, legal instruments, and the logic of power, while also creating space to discuss legal and institutional reforms capable of delivering substantive justice in the context of developing countries.

## Method

Legal science has unique characteristics compared to other disciplines, because it is *sui generis* and prescriptive in its orientation. This means that law not only functions to describe reality as it is (*das Sein*), but also to affirm what should happen (*das Sollen*) based on socially and constitutionally

recognized normative values.<sup>16</sup> This prescriptive dimension makes legal research fundamentally different from approaches in the social sciences,<sup>17</sup> which are generally descriptive and empirically based.

Within this framework, this study employs a Socio-Legal methodology, an approach that combines legal analysis with the social and political contexts in which law is applied.<sup>18</sup> This approach is chosen because corruption practices in Indonesia and Malaysia are not merely issues of formal law but are also intertwined with power structures, elite interests, and bureaucratic dynamics. The perspectives of legal positivism and formalistic law enforcement can only be critically analyzed when situated within the social, political, and legal-cultural contexts of each country. This method enables an understanding of how law is implemented, how formal procedures influence the legitimacy of corruption, and how legal practices interact with social structures.

The research data were obtained from both secondary and primary sources. Secondary data include laws, regulations, court decisions, state administrative documents, official reports on corruption, scholarly articles, legal theory books, and literature on legal positivism and corruption practices. Primary data were collected through in-depth interviews with legal experts, law enforcement officers, academics, and public policy actors. These interviews were conducted after the collection of secondary data to deepen understanding, validate findings, and uncover socio-political dynamics not reflected in official documents.

The analysis was conducted using a descriptive-analytical qualitative approach, through the grouping and categorization of data based on the

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<sup>16</sup> Jan-Reinard Sieckmann, 'The Dual-Nature Thesis: Which Dualism?', *Ratio Juris* 33, no. 3 (2020): 271–82, <https://doi.org/10.1111/raju.12295>.

<sup>17</sup> Maksymilian Del Mar, *Legal Theory and the Social Sciences*, 1st edn, ed. Del Mar Maksymilian and Michael Giudice (Routledge, 2017), <https://doi.org/10.4324/9781315091891>.

<sup>18</sup> Naomi Creutzfeldt et al., *Routledge Handbook of Socio-Legal Theory and Methods*, 1st edn, ed. Naomi Creutzfeldt et al. (Routledge, 2019), <https://doi.org/10.4324/9780429952814>.

primary research themes: corruption practices, institutional mechanisms, legal positivism, and socio-political impacts. The data were then critically analyzed with reference to legal and socio-legal theories and synthesized to address the three main research questions: corruption practices in Indonesia and Malaysia, the transformation of corruption into an institutional instrument of power, and the contribution of written law to the procedural legitimacy of corruption. This approach ensures that the study not only describes the phenomenon but also comprehensively examines the relationship between law, power, and corruption practices.

## Result and Discussion

### A. Corrupt Practices in Indonesia and Malaysia as Developing Countries

#### 1.1 Corruption Practices in Indonesia

Corruption in Indonesia has long been a major obstacle to national development and bureaucratic reform. Various efforts have been made through law enforcement and the establishment of anti-corruption institutions, yet corrupt practices remain rampant. Recent studies indicate that the roots of corruption in Indonesia extend beyond legal or institutional frameworks, also involving cultural norms, social values, and the structure of social networks within society itself.

Corruption in Indonesia manifests in various forms, including bribery, embezzlement, nepotism, collusion, and the misuse of public funds.<sup>19</sup> Bribery occurs when officials receive gifts or benefits to influence decisions.<sup>20</sup> Embezzlement refers to the diversion or misuse of state funds

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<sup>19</sup> Agus Purwanto and Andi Wahju Rahardjo Emanuel, 'Data Analysis for Corruption Indications on Procurement of Goods and Services', *2020 3rd International Conference on Information and Communications Technology (ICOLACT)*, IEEE, 24 November 2020, 56–60, <https://doi.org/10.1109/ICOLACT50329.2020.9331959>.

<sup>20</sup> Sadhono Hadi et al., 'Corruption of the Local Leaders in Indonesia: An Expository Study', *Jurnal Media Hukum* 27, no. 2 (2020), <https://doi.org/10.18196/jmh.20200155>.

for personal gain.<sup>21</sup> Nepotism takes place when relatives or family members are unlawfully granted positions or contracts. Collusion involves secret cooperation between officials and private parties for mutual benefit.<sup>22</sup> Misuse of public funds includes projects or programs intended for public welfare that are diverted for personal or group interests. The combination of these practices demonstrates that corruption is systemic, embedded within the bureaucracy, politics, and economy, and undermines public trust in the government.

In the 2024 Corruption Perceptions Index (CPI), Indonesia is ranked 99th out of 180 countries, with a score of 37. The Komisi Pemberantasan Korupsi (KPK) handled 93 corruption cases in 2024. Furthermore, the KPK also recorded the recovery of state losses amounting to IDR 2.5 trillion during the 2020-2024 period. The Attorney General's Office's Special Crimes Division handled 2,306 corruption investigations and successfully deposited Rp301.69 trillion in Non-Tax State Revenue. The Indonesian National Police uncovered 1,280 corruption cases in 2024, resulting in state losses of Rp4.8 trillion. They also successfully recovered Rp887 billion in assets through the enforcement of anti-money laundering measures.

In 2012, the e-KTP (Electronic Identity Card) corruption case emerged as one of the largest and most striking corruption scandals in Indonesia's history.<sup>23</sup> This national project, intended to serve as the foundation for the digitalization of citizens' identity data, instead became a cash cow for high-ranking state officials. The scandal came to public attention after the KPK uncovered serious budget irregularities in the Rp5.9 trillion procurement of the e-KTP system. Over half of the total

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<sup>21</sup> Yanto Yanto and Akhmad Suparmin, 'Analyzing Embezzlement in Office in Indonesian Law: Legal Responsibility, Moral Implications, and Recommendations for Reform', *Jurnal Hukum Unissula* 40, no. 2 (2024): 1–16, <https://doi.org/10.26532/jh.v40i1.38905>.

<sup>22</sup> Hasan Arslan et al., eds, *Research on Humanities and Social Sciences* (Peter Lang D, 2016), <https://doi.org/10.3726/978-3-631-69829-7>.

<sup>23</sup> Imelda Suardi et al., 'The Acceptance of Procurement System in Affecting Corruption in the Indonesian Government: User Perspective', *Journal of Entrepreneurship and Public Policy*, ahead of print, 31 March 2025, <https://doi.org/10.1108/JEPP-05-2024-0077>.

budget was allegedly embezzled by officials from the Ministry of Home Affairs, members of the House of Representatives (DPR RI), and private sector actors.

Moreover, the construction and infrastructure sectors are also vulnerable to corruption, as exemplified by the Hambalang case. The Hambalang project corruption case occurred between 2010 and 2012, although the project itself had been initiated as early as 2003–2004. Several Democratic Party cadres were compelled to deal with the KPK due to their involvement in the case. The project's complexity, high investment value, and political intervention created opportunities for bribery, markups, and contract manipulation.<sup>24</sup> Research by Sembiring et al. indicates that weak oversight and a lack of transparency systematically encourage corrupt behavior, from the procurement of materials and labor to the disbursement of budgets.<sup>25</sup> As a result, projects are often delayed, quality deteriorates, and costs escalate, while supervisory authorities focus on procedural aspects rather than socio-economic impacts.

One of the biggest corruption scandals uncovered by the Attorney General's Office in 2024 was the corruption case involving the trade of tin commodities, which implicated Harvey Moeis.<sup>26</sup> The husband of well-known actress Sandra Dewi. In this case, the state is estimated to have suffered losses of up to Rp300 trillion. The case began when Harvey Moeis, acting as a representative of PT Refined Bangka Tin (RBT), established communication with Riza Pahlevi Tabranis, the President Director of PT Timah Tbk. The purpose of this communication was to facilitate illegal mining activities within the mining business permit area of PT Timah.

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<sup>24</sup> Hendi Yogi Prabowo, 'Sight beyond Sight: Foreseeing Corruption in the Indonesian Government through Behavioral Analysis', *Journal of Financial Crime* 23, no. 2 (2016): 289–316, <https://doi.org/10.1108/JFC-12-2014-0063>.

<sup>25</sup> Rian Mantasa Salve Prastica et al., 'What Are the Triggering Factors of Corruption in Construction Industry in Indonesia?', 2024, 030037, <https://doi.org/10.1063/5.0214112>.

<sup>26</sup> Lola Yustrisia et al., 'Mining Corruption, Environmental Damage, and the Increasing Unauthorized Properties of State Officials', *Edelweiss Applied Science and Technology* 8, no. 4 (2024): 1856–65, <https://doi.org/10.55214/25768484.v8i4.1558>.

Through an illicit cooperation scheme, Harvey and Riza disguised the unlawful mining operations under the pretext of leasing tin processing equipment, allowing them to generate massive profits while causing significant losses to the state's finances.

Government bureaucracy also serves as an essential arena for complex corruption practices. Informal practices, such as gratuities and bribery, are often accepted as social norms, despite violating administrative ethics and professional standards. Several widely reported cases include bribery in CPO export cases involving judges, bribery in the buying and selling of government positions, and bribery cases across various ministries, such as the Ministry of Agriculture, involving high-ranking officials. Weak internal oversight, political interference, and resistance to reform make state institutions, including the courts, vulnerable to integrity crises. Political pressure and inadequate internal controls compromise the effectiveness of anti-corruption agencies, enabling corruption practices to persist systematically.

Unknowingly, many corruption cases exploit weaknesses in existing written laws. These legal gaps are a significant factor that enables the involvement of private entities or non-governmental actors in corrupt practices.<sup>27</sup> For example, provisions in regulations governing the procurement of goods and services or business licensing are often vague or insufficiently detailed, creating opportunities for private companies to exploit procedures for illicit gains. Furthermore, complex contract systems with minimal transparency create room for budget mark-ups, collusion between officials and entrepreneurs, and irregularities in strategic projects. In this context, private actors are no longer merely implementers; they have become central players in institutional corruption networks, collaborating with public officials to pursue personal interests.

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<sup>27</sup> Barry Bozeman et al., 'Angling for Sharks, Not Pilot Fish: Deep Corruption, Venal Corruption, and Public Values Failure', *Perspectives on Public Management and Governance* 1, no. 1 (2018): 5–27, <https://doi.org/10.1093/ppmgov/gvx002>.

Entrepreneurs are often driven to engage in lobbying to win tenders or obtain business permits, particularly in the face of intense business competition. Close relationships with public officials offer them advantages, including priority access and protection from legal risks. Moreover, social networks, group solidarity, and a culture that accepts gratuities make practices of collusion and nepotism appear normal and function as effective business strategies. Considering the relatively low legal risks compared to the potential for substantial gains, entrepreneurs choose to engage in corruption as a means of adapting to a complex, procedure-oriented bureaucracy.

Proximity to power is a crucial factor that facilitates entrepreneurs' involvement in corruption practices in Indonesia.<sup>28</sup> Close relationships with public officials or political elites provide direct access to strategic decisions, such as licensing, project procurement, and budget allocation, which should usually follow formal procedures. In the e-KTP case, for instance, the involvement of private actors with Ministry of Home Affairs officials and members of the House of Representatives enabled them to exploit project funds illegally, resulting in more than half of the Rp5.9 trillion budget being misappropriated without significant obstacles.

The 2024 tin case serves as a clear example of how collusion between entrepreneurs and state officials opens the door to illegal business permit management for personal gain, with potential state losses reaching approximately Rp300 trillion. These practices occurred without effective oversight from law enforcement authorities. Entrepreneurs' proximity to the centers of power not only provides access to strategic decisions but also reduces the legal risks they face. Personal and business relationships with public officials often serve as informal protection, meaning investigations and prosecutions frequently only begin after companies have long enjoyed

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<sup>28</sup> Indri Dwi Apriliyanti and Stein Oluf Kristiansen, 'The Logics of Political Business in State-Owned Enterprises: The Case of Indonesia', *International Journal of Emerging Markets* 14, no. 5 (2019): 709–30, <https://doi.org/10.1108/IJOEM-08-2018-0433>.

substantial profits. This situation demonstrates how the independence of law enforcement agencies can be influenced by surrounding economic and political power.

In the Hambalang case, the closeness between entrepreneurs and state officials provided advantages in the form of access to strategic information not available to competitors, such as tender plans, government projects, or policy changes. Such early information was used to devise manipulative strategies and establish more organized collusion. Proximity to the centers of power also strengthens entrepreneurs' social and political positions. Within a cultural context that values group loyalty and respect for authority, practices of collusion and gratuities are often perceived as normal and socially acceptable, meaning corrupt actions do not necessarily damage their image or reputation in the public eye.

Social and cultural dimensions also reinforce corrupt practices. Social capital, networks of solidarity, and group loyalty are often used to justify collusion and nepotism. Social norms that emphasize excessive respect for authority, reluctance to question officials, and tolerance toward gratuities create cultural barriers to clean governance. Abdul Nadjib highlights that corruption is often perceived as an expression of collective values that prioritize group interests over formal law,<sup>29</sup> Fernando and Galuh note that paternalistic mindsets and submissive attitudes toward superiors pose significant obstacles to the implementation of accountable governance principles.<sup>30</sup>

A comprehensive analysis of the persistence of corruption in Indonesia in relation to written law reveals that the root of the problem lies not merely in weak law enforcement, but more fundamentally in the legal

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<sup>29</sup> Abdul Nadjib, 'How Social Capital Works: The Role of Social Capital in Acts of Corruption', *International Journal of Psychosocial Rehabilitation* 24, no. 3 (2020): 2424–33, <https://doi.org/10.37200/IJPR/V24I3/PR201890>.

<sup>30</sup> Henry Fernando et al., 'Cultural Barriers to Preventing Corrupt Practices in Indonesia', *The International Journal of Interdisciplinary Civic and Political Studies* 20, no. 2 (2025): 135–59, <https://doi.org/10.18848/2327-0071/CGP/v20i02/135-159>.

paradigm itself. Written law, which positions law as a closed normative system detached from moral values, has shaped the mindset of legal personnel and institutions to assess justice solely through procedural parameters rather than substantive ones. This paradigm turns law into a tool of administrative control rather than a means of moral correction. Corrupt actors with access to power and legal knowledge can manipulate procedural loopholes to evade criminal liability. They do not violate the law in the formal sense, but they breach justice in the substantive sense. Because law enforcement officials operate within a rigid framework of written law, violations of justice are often beyond the reach of legal logic, which is focused solely on codified norms and procedures.

The synthesis of these findings indicates that combating corruption cannot rely solely on formal or repressive legal approaches. A fundamental transformation is required in cultural norms, institutional restructuring, regulatory improvement, and societal perspectives on social practices and power dynamics. Only through systemic measures, including bureaucratic reform, enhanced transparency and accountability, oversight of private actors, and shifts in social norms, can anti-corruption efforts be effective and sustainable.

## **1.2 Corruption Practices in Malaysia**

Malaysia has long been entangled in the vortex of corruption, which not only undermines public governance but also erodes governmental legitimacy and public trust. Despite the establishment of various institutions such as the Malaysian Anti-Corruption Commission (MACC), corruption continues to thrive in multiple forms and sectors.

In the 2024 Corruption Perceptions Index (CPI), Malaysia ranked 57th out of 180 countries. This ranking is based on perceptions of corruption levels in the public sector, with a score of 50 out of 100. The score indicates a moderate level of public sector corruption, where higher

scores reflect lower levels of corruption. Malaysia's average corruption score from 1995 to 2024 was 46.73, reaching an all-time high of 62.00 in 2017 and a record low of 23.00 in 1995. According to data from the Malaysian Anti-Corruption Commission (MACC), arrests related to corruption have increased significantly, rising by 205% from 552 cases in 2014 to 1,125 cases in 2021.<sup>31</sup> The number of arrests for corruption increased by 6.38% from 851 in 2021 to 909 in 2022.<sup>32</sup>

Malaysia has been rocked by corruption scandals involving three former Prime Ministers: Ismail Sabri, Muhyiddin Yassin, and Najib Razak. Ismail Sabri, who served as Malaysia's Prime Minister from 2021 to 2022, was named a suspect by the Malaysian Anti-Corruption Commission (MACC) in connection with the possession of cash, gold, and luxury items worth RM700 million (approximately IDR 2.6 trillion). Observers have questioned how Ismail Sabri could have amassed such wealth during his brief 15-month tenure. On 1 October 2025, the Sessions Court ruled to confiscate more than RM169 million in cash belonging to Ismail Sabri, consisting of various currencies, and ordered it to be handed over to the Malaysian government as part of the state's asset recovery efforts.

Meanwhile, Muhyiddin Yassin was charged in 2023 with abuse of power and money laundering related to bribes amounting to RM232.5 million (over IDR 856 billion) during his 17-month tenure as Prime Minister between March 2020 and August 2021. The arrest was made by Malaysia's anti-corruption agency in connection with a government stimulus program for Malay contractors during the COVID-19 pandemic. Muhyiddin faced four counts of corruption, namely: receiving RM200

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<sup>31</sup> Azman Ab Rahman et al., 'Peranan Kerajaan Dalam Pendidikan Antirasuah Di Malaysia Dan Impaknya Terhadap Masyarakat: The Role Of The Government In Anti-Corruption Education In Malaysia And Its Impact On Society', *Journal of Fatwa Management and Research* 29, no. 1 (2024): 129–41, <https://doi.org/10.33102/jfatwa.vol29no1.574>.

<sup>32</sup> Anis Nabilah Kamarulzaman et al., 'Gejala Rasuah Dan Implikasi Terhadap Masyarakat Malaysia Menurut Perspektif Syarak: The Symptoms Of Corruption And Implications For The Malaysian Community According To The Shariah Perspective', *Journal of Fatwa Management and Research* 28, no. 2 (2023): 87–103, <https://doi.org/10.33102/jfatwa.vol28no2.538>.

million from Bukhary Equity Sdn Bhd, soliciting RM1 million from Nepturis Sdn Bhd, soliciting RM19.5 million from Mamfor Sdn Bhd, and soliciting RM12 million from Azman Yusoff, all related to activities that took place at the Prime Minister's Office in Putrajaya between February and August 2021. However, the Malaysian High Court acquitted Muhyiddin, ruling that the charges were vague, unclear, and concerned an offense not recognized under the law.

The case of Najib Razak involved allegations of the transfer of more than RM2.67 billion (over IDR 9.8 trillion) from 1Malaysia Development Berhad (1MDB) into his personal bank accounts. Najib denied that the money originated from 1MDB, claiming instead that it was a donation from a Saudi Arabian prince. The funds were also allegedly used to support the lavish lifestyles of Najib, his wife Rosmah Mansor, and his stepson Riza Aziz, including the establishment of a film production company in Hollywood.

On 6 January 2025, a Malaysian court granted Najib Razak access to official government documents that would allow his prison sentence to be served under house arrest, a privilege rarely granted to former national leaders involved in major financial scandals. Previously, Najib had been sentenced to 12 years in prison but received a royal pardon from the King of Malaysia, Al-Sultan Abdullah Ahmad Shah, which reduced his sentence to six years. Najib asserted that the Malaysian government had amended his sentence to house arrest, although the relevant authorities reportedly ignored the addendum.

According to Azman Ab Rahman et al., corruption in Malaysia's public sector arises from both internal and external factors. Internally, it is driven by the low level of personal integrity among public officials, while externally, it is influenced by economic pressures and inconsistent government policies. This phenomenon demonstrates that corruption is not merely an individual act, but rather the result of an interaction between

personal agency and structural conditions that enable such misconduct.<sup>33</sup> Yap et al. add that in the process of service procurement within the construction industry, practices such as bribery, contract manipulation, and procedural evasion often occur due to the high value of projects, unhealthy competition, and weak regulatory oversight.<sup>34</sup>

The construction sector is one of the fields most vulnerable to corruption due to its complex nature, the involvement of multiple actors, and the large flow of funds. An extreme case occurred in Malaysia on 17 July 2025, when a project manager from a major construction company burned nearly 1 million Malaysian Ringgit (approximately IDR 3.8 billion) in cash after being caught by the Malaysian Anti-Corruption Commission (MACC), in an attempt to destroy evidence of suspected corruption in a data center construction project. Furthermore, subsequent searches revealed additional cash of around RM7.5 million stored in several cushion boxes, along with luxury watches from Rolex, Omega, and Cartier, as well as gold jewelry including rings and coins.

This phenomenon reflects that the root of the problem lies not only in individual greed but also in collusive networks, weak professional ethical standards, and intense industry competition. A study by Syed Abdul et al. reveals that weak accountability mechanisms and the broad discretionary powers held by public officials are key determinants of corruption.<sup>35</sup> This is further supported by the study of Khairul Saidah Azmi, which highlights

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<sup>33</sup> Azman Ab Rahman et al., 'Analisis Faktor-Faktor Gejala Rasuah dan Cabaran Menanganinya di Malaysia: Analysis The Factors Of Corruption And The Challenges Of Preventing It In Malaysia', *Malaysian Journal of Syariah and Law* 10, no. 1 (2022): 90–97, <https://doi.org/10.33102/mjssl.vol10no1.387>.

<sup>34</sup> Jeffrey Boon Hui Yap et al., 'Analysing the Causes of Corruption in the Malaysian Construction Industry', *Journal of Engineering, Design and Technology* 18, no. 6 (2020): 1823–47, <https://doi.org/10.1108/JEDT-02-2020-0037>.

<sup>35</sup> Sharifah Liyana Marissa Malik Syed Abdul et al., 'Factors That Might Lead to Corruption: A Case Study on Malaysian Government Agency', *International Journal of Financial Research* 10, no. 3 (2019): 216, <https://doi.org/10.5430/ijfr.v10n3p216>.

how institutional design within the public procurement system can indirectly create structured opportunities for violations to occur.<sup>36</sup>

Corrupt practices in the construction sector often originate from fraudulent activities in the procurement of government goods and services, driven by power relations and connections between state actors and business elites. Over time, this has evolved into organized corruption involving ruling elites, politicians, and private capitalists.<sup>37</sup> The likelihood of corruption among public officials in Malaysia is primarily influenced by internal factors, particularly the lack of integrity in performing state duties. Externally, corruption is fueled by low wages, financial pressure, work-related stress, and ineffective national policies, all of which significantly contribute to corrupt behavior.<sup>38</sup>

A similar situation is also evident in the bureaucratic sector, where bribery has become an integral part of the socio-administrative system. The bribery sector in Malaysia also shows worrying figures. According to a report presented to Parliament on Friday, August 15, 2025, nearly 3,000 government officials have been involved in bribery cases over the past decade. This figure is the highest compared to other groups of bribery recipients during the same period, almost three times higher than actors in the private sector. This fact indicates that, within the framework of cultural embeddedness, bribery is often not perceived as a violation but as a “lubricant” to expedite matters or as a form of reciprocity that has long been internalized within the social system.

The accumulation of various cases and data illustrates that corruption in Malaysia is not merely a matter of morality or law enforcement, but

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<sup>36</sup> Khairul Saidah Abas Azmi N.A., ‘Exploring Public Procurement in Malaysia: How Institutional Arrangements Manufacture Fraudulent Practices’, *International Journal of Procurement Management* 1, no. 1 (2021): 1, <https://doi.org/10.1504/IJPM.2021.10041519>.

<sup>37</sup> N.A., ‘Exploring Public Procurement in Malaysia’.

<sup>38</sup> Jeffrey Boon Hui Yap et al., ‘Analysing the Causes of Corruption in the Malaysian Construction Industry’, *Journal of Engineering, Design and Technology* 18, no. 6 (2020): 1823–47, <https://doi.org/10.1108/JEDT-02-2020-0037>.

rather the result of systemic failures in designing governance with integrity. Corruption thrives when political control over anti-corruption agencies is excessive, public oversight is weakened, and bureaucratic ethics are replaced by loyalty based on patronage.<sup>39</sup> Major scandals, such as 1MDB involving Najib Razak, and two cases concerning former Prime Ministers Ismail Sabri and Muhyiddin Yassin, confirm that corrupt practices have become embedded in the decision-making mechanisms at the highest levels of government.

Law enforcement authorities often face difficulties in upholding substantive justice because violations occur within systemic frameworks, where formal procedures alone are insufficient to address the social, public, ethical, and moral harms caused. In the cases of Ismail Sabri and Muhyiddin Yassin, authorities focused primarily on administrative evidence and formal procedures. Muhyiddin, for instance, was acquitted because the charges were deemed vague and unclear. This highlights the limitations of a formalistic legal system in addressing elite corruption, where authorities often focus on documentation or procedural compliance, while the social harm incurred is frequently overlooked. The Najib Razak case also highlights legal enforcement uncertainties, as pardons and house arrest arrangements raise concerns about the potential for selective justice.

The synthesis of these findings indicates that corruption cannot be understood solely from the perspective of individual behavior. The cases of former Prime Ministers, practices in the construction sector, and bribery within the bureaucracy demonstrate that institutional structures, the design of public procurement systems, and a culture of collusion create opportunities for corruption. Individual factors, such as personal integrity and ethics, are only one variable within a broader system that enables malfeasance. The internal integrity of public officials and external

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<sup>39</sup> Jing Vivian Zhan and Jiangnan Zhu, 'Policy Coordination and Selective Corruption Control in China', *Policy Studies Journal* 51, no. 3 (2023): 685–702, <https://doi.org/10.1111/psj.12487>.

structural conditions, such as institutional design, weak oversight, and inconsistent government policies, mutually reinforce the occurrence of corruption. In other words, corruption arises from the complex interaction between individual character and structural opportunity.

Legal systems that emphasize formal procedures consistently fail to uphold substantive justice.<sup>40</sup> Authorities face obstacles in proving public harm or ethical violations when infractions occur within systemic contexts. This creates a gap between legal certainty and social justice, fostering perceptions of the law's selective application. It demonstrates that addressing corruption requires more than legal measures alone. Institutional reform, enhanced transparency, strengthened accountability, and the systemic cultivation of integrity values are all necessary to combat corruption effectively.

### **1.3 Comparative Analysis of Corruption Reproduction in Indonesia and Malaysia**

Corruption in Indonesia and Malaysia exhibits a similar pattern: it is not merely the result of individual deviance, but a deeply embedded feature of social and political systems within state institutions. Corrupt practices thrive within networks of power involving public and private actors, bureaucrats, politicians, and entrepreneurs who are mutually dependent in complex patronage systems. In this context, corruption is reproduced not because laws are absent, but because laws are applied narrowly and procedurally. Formal compliance with regulations is often used as a shield to conceal substantive deviations. In other words, corruption becomes an integral part of the bureaucracy's very workings.

In Indonesia, this phenomenon is clearly reflected in significant cases such as the e-KTP and Hambalang projects, which demonstrate how

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<sup>40</sup> Frane Staničić, 'Excessive Legal Formalism and Public Procurement Procedures', *Zbornik Pravnog Fakulteta u Zagrebu* 67, nos 3–4 (2017): 531–64.

administrative gaps, manipulation of procurement procedures, and collusion among officials have become practices almost legitimized by the complexity of the formal legal system. In Malaysia, a similar pattern is evident in the 1MDB scandal, involving the highest political actors, including former Prime Minister Najib Razak. This case confirms that corruption can operate through state institutions, such as financial institutions and government-owned companies, for personal and political gain, and can even extend to international networks. Both countries illustrate how centralized power, hierarchical bureaucratic systems, and economic and political dependence on elites create conditions conducive to the continual reproduction of corruption.

Colonial legacies have also shaped these patterns. The legal and bureaucratic systems established by the Dutch in Indonesia and the British in Malaysia left administrative footprints that emphasized hierarchy, legalism, and loyalty to authority. Consequently, after independence, both countries adopted legal and governmental structures that prioritized form over substance. When law is oriented solely towards procedure, substantive justice is frequently neglected, creating spaces in which corruption can thrive. Regulatory gaps, ambiguous rules, and the use of formal documentation as a means of legitimacy can turn the legal system into a protective tool rather than an instrument for combating corrupt practices.

However, the reproduction of corruption cannot be explained solely by legal weaknesses. Social and cultural dimensions are also crucial. In societies where personal loyalty, patron-client relationships, and a sense of reciprocity are highly valued over legal compliance, practices such as gratification and facilitation payments are often not perceived as crimes.<sup>41</sup> In both Indonesia and Malaysia, political patronage sustains subtler forms

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<sup>41</sup> Waros Ngamsiriudom, "Perceived Seller Loyalty" for "Customer Loyalty", Does "Tat for Tat" Work Like "Tit for Tat"?', in *Thriving in a New World Economy*, ed. Kirk Plangger, Developments in Marketing Science: Proceedings of the Academy of Marketing Science (Springer International Publishing, 2016), [https://doi.org/10.1007/978-3-319-24148-7\\_84](https://doi.org/10.1007/978-3-319-24148-7_84).

of corruption, not merely bribery or embezzlement, but exchanges of interest cloaked in social legitimacy. Political support is reciprocated with projects, appointments, or privileges. Within such frameworks, corruption is not only sustained but actively reproduced by value systems that normalize it as part of bureaucratic routine.

The main difference between Indonesia and Malaysia lies in scale and operational channels. In Indonesia, corruption is often rooted in public procurement and bureaucracy at both the central and regional levels, illustrating how corruption is decentralized while simultaneously creating new opportunities for local-level deviations. In contrast, in Malaysia, corruption is more often found at elite levels and is usually connected to global financial networks, as evidenced by the 1MDB case. Corruption in Malaysia not only manipulates the national bureaucracy but also infiltrates international banking systems, law firms, and gaps in global financial oversight. Yet in both contexts, the reproduction of corruption relies on the exact mechanisms: weak transparency, dependence on political loyalty, and the absence of effective social sanctions.

From a law enforcement perspective, both countries face similar dilemmas. Anti-corruption agencies, such as Indonesia's KPK and Malaysia's MACC, confront challenges to independence, political pressure, and limited authority. When law enforcement institutions become entangled in political games, anti-corruption efforts lose their moral authority.<sup>42</sup> In Indonesia, the KPK, once a symbol of public hope, has been weakened through legislative revisions and bureaucratic controls. In Malaysia, although the anti-corruption agency has successfully brought major cases, such as 1MDB, to court, the outcomes continue to reflect a tug-of-war between justice and power. In both countries, corruption

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<sup>42</sup> Ahmad Khoirul Umam and Brian Head, 'Testing the Limits of Public Integrity: The Impact of Vested Interests and Countervailing Forces on Indonesia's KPK', *Asian Politics & Policy* 12, no. 3 (2020): 384–403, <https://doi.org/10.1111/aspp.12548>.

endures because the legal system lacks the courage to go beyond formalities and enforce true substantive justice.

Economically, the impact of corruption reproduction is tangible. Public budgets swell without corresponding results, infrastructure quality remains poor, and state losses reach trillions. Corruption slows growth, exacerbates inequality, and undermines investor confidence.<sup>43</sup> Yet more critically, its political effects erode state legitimacy. When citizens see that high-ranking officials can evade accountability on technical grounds or through political influence, public morality is also undermined. In the long term, corruption not only damages state finances but also erodes the nation's moral foundation and social cohesion.

Thus, the reproduction of corruption in Indonesia and Malaysia is not the result of a lack of law, but of law operating without the spirit of justice. It is a product of a system that prioritizes procedure over substance, loyalty over integrity, and administrative compliance over moral responsibility. Genuine reform cannot stop at creating new legislation or establishing new institutions; it must penetrate the social, cultural, and political roots that sustain corrupt practices. Changing societal values and perceptions of power, gratification, and public responsibility is an essential precondition for ensuring that law no longer serves as a shield for crime, but as an instrument of liberation from a system that has long normalized corruption.

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<sup>43</sup> Carole Ibrahim, 'Corruption, Public Debt and Economic Growth – Evidence from Developing Countries', *International Journal of Development Issues* 20, no. 1 (2021): 24–37, <https://doi.org/10.1108/IJDI-12-2019-0208>.

## **B. The Transformation of Corruption: From Criminal Practice to Institutional System in Indonesia and Malaysia as Developing Countries**

Corruption in Indonesia and Malaysia is not merely an incidental criminal phenomenon; it has evolved into an institutionalized practice embedded within decision-making mechanisms, bureaucratic processes, and the networks linking political and business elites, affecting nearly all layers of government, bureaucracy, the private sector, and social norms. This transformation is reflected not only in the magnitude of state losses but also in how corruption has become rooted within institutional structures, political-economic dynamics, and social culture.

At the structural level, colonial legacies have left hierarchical bureaucracies and legalistic orientations that continue to influence both countries. In Indonesia, the administrative legacy of Dutch colonial rule and post-colonial centralization produced institutions with strong formalistic features yet vulnerable to patronage during periods of political transition and decentralization. Major cases such as the e-KTP project illustrate how modernization initiatives can become vehicles for corruption when oversight is weak and contractual structures are complex.

In Malaysia, the post-colonial political landscape and the government's active role in the economy, through state-owned enterprises and industrialization policies, generated opportunities for the concentration of power in corporate-like structures. The 1MDB scandal represented a pivotal moment, where a state-linked corporate vehicle was used for cross-border fund transfers and to support elite lifestyles, indicating a transition from mere administrative mismanagement to organized global networks. Later legal and political events, including court cases, pardons, and procedural conflicts, highlighted the inherently political nature of addressing such matters.

Both contexts are further shaped by economic pressures (infrastructure development demands, distribution of large contracts) and political patronage cultures, where state resources become instruments of political exchange, and practices of gratification and clientelism evolve into covert norms.

Initially, corruption was understood as deviant behavior carried out by individuals.<sup>44</sup> Forms such as bribery, embezzlement, and document falsification were viewed as personal violations that could be addressed through legal enforcement. In Indonesia, numerous cases of deviations in construction projects and public procurement at both national and regional levels reflect this view. In Malaysia, bribery in medium-scale public projects and services was similarly regarded as an individual violation manageable via investigation or administrative sanctions. Over time, however, this pattern shifted. Corruption in both countries has evolved from personal misconduct into a systemic phenomenon, where individual actions intersect with structural weaknesses, bureaucratic culture, and permissive social norms, creating institutional systems that indirectly normalize corrupt practices.<sup>45</sup>

This transformation can be analyzed through a corruption behavior framework that emphasizes the interaction between individual motivation, structural opportunities, and social norms. Officials with low integrity are more likely to engage in deviance when faced with complex bureaucracy, weak internal oversight, and social networks that support illicit behavior.<sup>46</sup>

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<sup>44</sup> Carl J. Friedrich, 'Corruption Concepts in Historical Perspective', in *Political Corruption*, 3rd edn, by Arnold I. Heidenheimer and Michael Johnston, ed. Michael Johnston (Routledge, 2017), <https://doi.org/10.4324/9781315126647-2>.

<sup>45</sup> Ionut Cristian Preda, 'Corruption Evolution in the Last Decade and the Impact on Public Institutions', in *Economic Growth, Prosperity and Sustainability in the Economies of the Balkans and Eastern European Countries*, ed. Maria Mavri et al., Springer Proceedings in Business and Economics (Springer Nature Switzerland, 2024), [https://doi.org/10.1007/978-3-031-58437-4\\_10](https://doi.org/10.1007/978-3-031-58437-4_10).

<sup>46</sup> Susan Rose-Ackerman, 'Which Bureaucracies Are Less Corruptible?', in *Political Corruption*, 2nd edn, by Arnold J. Heidenheimer et al. (Routledge, 2024), <https://doi.org/10.4324/9781003575658-62>.

Meanwhile, social cultures that tolerate gratification and group loyalty reinforce the legitimacy of corruption, making illegal behavior not only acceptable but also a strategic adaptation to survive within a complex, procedure-oriented bureaucratic system.

In Indonesia, the institutionalization of corruption is evident in strategic national projects, public procurement, and the management of natural resources. The e-KTP case, for example, highlights how a multi-billion-rupiah digital identity project was misused through collusion between public officials and private actors. The tin industry scandal shows how business licenses and natural resources can serve as institutionalized channels for personal gain. The Hambalang case further demonstrates how public officials empowered private actors to generate significant profits. Regulatory complexity, legal loopholes, and lengthy bureaucratic procedures create spaces for systemic deviance, where corruption is no longer sporadic but embedded in operational mechanisms.

In Malaysia, the character of corruption differs but remains systemic. The 1MDB scandal involving former Prime Minister Najib Razak, along with cases involving Ismail Sabri and Muhyiddin Yassin, illustrates elite corruption rooted in high-level decision-making. Major projects and high-value public sectors become arenas for collusion between executive officials and private capitalists, with formal procedures lending a façade of legitimacy. Law enforcement often faces obstacles, as administrative evidence and procedural compliance are insufficient to address social harm and public ethics. This indicates that elite corruption in Malaysia is top-down, in contrast to the horizontally dispersed corruption across central and regional bureaucracies in Indonesia.

A key feature of this transformation is the active involvement of the private sector.<sup>47</sup> Entrepreneurs are not only beneficiaries but also actors

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<sup>47</sup> Jane Ellis, ed., *Corruption, Social Sciences and the Law: Exploration across the Disciplines*, 1st edn (Routledge, 2019), <https://doi.org/10.4324/9780429197352>.

shaping the institutional corruption system. Close relationships with public officials provide access to strategic information, project prioritization, and budget management opportunities. In Indonesia, business actors exploit personal and political networks to win tenders or obtain licenses, with low legal risk due to informal protections. In Malaysia, elite entrepreneurs leverage political-business networks to manipulate major construction projects. This demonstrates that corruption is not merely criminal behavior but a systemic adaptation strategy to complex institutional structures.

Social culture further reinforces these practices. In Indonesia, group loyalty, patron-client relations, and respect for authority render gratification and bribery socially acceptable norms. In Malaysia, elite political and business networks are shaped by ethnic solidarity, group loyalty, and informal protections. These norms suggest that corruption has become an integral part of an implicit social contract, where deviant behavior is considered normal for maintaining stability, accessing resources, and achieving political and economic gains.<sup>48</sup>

The transformation of corruption into an institutional system has significant implications for public trust. Systemic corruption generates the perception that law enforcement agencies cannot deliver substantive justice, evident in public dissatisfaction with high-profile cases, pardons, or administratively selective decisions. Society now demands systems capable of enforcing substantive justice, accounting for public losses, and promoting transparency and accountability.

A conceptual model of corruption transformation can be understood through three analytical levels. At the individual level, focus lies on the moral and rational aspects of actors, with the integrity of public officials and business actors being central. Corrupt actions often emerge from personal calculations that balance potential risks and benefits, resulting in

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<sup>48</sup> Sanghita Ghosh and Mainak Bhattacharjee, 'Political Economy Underlying Corruption and Its Macroeconomic Implications', in *Social Sector Spending, Governance and Economic Development*, 1st edn, by Ramesh Chandra Das (Routledge India, 2023), <https://doi.org/10.4324/9781003245797-2>.

pragmatic decisions that optimize opportunities while minimizing potential sanctions. The structural level examines institutional design and governance frameworks, where corruption is shaped not only by individual intent but also by how institutions, regulations, bureaucratic procedures, and internal oversight mechanisms are designed and implemented. Inefficiencies, overlapping authorities, and weak internal controls create gaps that allow systematic and repeated corrupt practices.

The socio-cultural level encompasses social norms, group loyalty, patronage networks, and public perceptions of the legitimacy of corrupt acts. At this level, corruption is understood not merely as a legal violation but as a socially accepted practice, particularly when linked to solidarity, reciprocity, or moral obligations within social networks. Interactions among these socio-cultural, structural, and individual factors generate a systemic corruption ecosystem, where individual deviance is reinforced by institutional gaps and culturally justified within society.

Overall, this analysis shows that corruption in Indonesia and Malaysia has evolved from individual legal violations into an institutional system embedded in social, political, and economic structures. This phenomenon suggests that anti-corruption efforts cannot rely solely on formal legal instruments or law enforcement, as corruption has become a resilient and adaptive mechanism of power. In this context, comprehensive reform is required, addressing all layers of public life, from bureaucratic culture and social value reconstruction to the establishment of business ethics grounded in integrity.

Reforming bureaucratic culture is a crucial first step to breaking the chain of institutionalized corruption in Indonesia and Malaysia. Bureaucracies in both countries remain strongly influenced by colonial legacies, prioritizing hierarchy, formal compliance, and personal loyalty over public accountability. Such patterns create grey areas where non-institutional considerations, including patronage, gratification, and group

interests, shape administrative decisions. Bureaucratic reform, therefore, requires not only procedural simplification and digitalization of public services but also a transformation of internal values among state officials—from superficial compliance to a culture of public service founded on integrity and ethical responsibility. This effort demands strong moral leadership, transparency in promotions, and fair incentive and sanction mechanisms to promote sustainable behavioral change.

Reconstructing social values is the second critical dimension, as the roots of corruption often lie in norms and habits embedded within society. In many local contexts, gift-giving, reciprocity, or “thank-you money” is still considered normal and socially positive as a symbol of appreciation. Such perceptions inadvertently legitimize micro-level corruption, ultimately reinforcing patronage systems at the macro level. Social value reconstruction should foster a new awareness that integrity is a collective value benefiting society as a whole. Anti-corruption education must be integrated into school curricula, public discourse, and media narratives, ensuring that honesty, responsibility, and transparency become respected and internalized social identities.

Finally, establishing ethical business practices forms the third foundation for a sustainable anti-corruption system. Public-private interactions are often prone to corruption, particularly through procurement, licensing, and the allocation of economic resources. Businesses in Indonesia and Malaysia face a dilemma between ethical compliance and economic competition pressures, which frequently encourage non-transparent compromises. Therefore, applying principles of Good Corporate Governance, strengthening reporting systems, and implementing international standards such as Environmental, Social, and Governance (ESG) frameworks must extend beyond administrative formalities. Business ethics must be embedded within corporate strategy,

measuring sustainability not only in terms of profitability but also in terms of integrity and social contribution.

These three pillars mutually reinforce one another in creating a clean and accountable governance environment. Legal reform and law enforcement are effective only when supported by changes in bureaucratic mentality, public moral awareness, and private sector commitment to public ethics. Consequently, combating corruption in Indonesia and Malaysia should not be understood solely as a legal project, but as a social transformation process that requires consistency, political courage, and collective participation to uphold substantive justice and establish a civilized governance system.

### **C. Weaknesses of Written Laws in the Preservation and Control of Corruption in Indonesia and Malaysia**

The anti-corruption legal frameworks in Indonesia and Malaysia have shown significant formal progress over the past few decades; yet, beneath these normative appearances lie fundamental weaknesses that impede effective law enforcement and systemic prevention of corruption. In Indonesia, laws such as Law No. 31 of 1999, later amended by Law No. 20 of 2001 on the Eradication of Corruption, represent essential milestones in combating corruption. However, their inherent weakness lies in the law's reliance on a punitive rather than preventive approach. Criminal provisions primarily target corrupt acts after they occur, leaving little room for strengthening public ethics, institutional governance, or structural bureaucratic reform. Consequently, even with relatively independent institutions like the KPK, the legal mechanisms binding it remain vulnerable to political pressures through legislative revisions, weakened authority, or covert political control.

In Malaysia, the MACC Act established the legal framework for the Malaysian Anti-Corruption Commission (MACC), featuring a modern and robust structure. Nevertheless, weaknesses remain in terms of limited institutional independence and overlapping jurisdictions with other executive bodies. In practice, MACC has often been criticized for lacking full autonomy in prosecuting senior officials, particularly when cases involve influential political figures. The 1MDB scandal exemplifies this: corruption on a global scale persisted due to weak oversight mechanisms and abuse of authority at the highest levels of government. As in Indonesia, written law in Malaysia cannot function effectively under intense political and economic pressures.

Procedural and institutional constraints further compound law enforcement challenges in both countries. In Indonesia, the fragmented authority among the KPK, the Attorney General's Office, and the Police often leads to overlapping jurisdictions, slowing legal processes and creating space for political compromise. Judicial discretion is sometimes used to protect powerful or economically influential perpetrators. In Malaysia, the highly centralized legal structure makes investigations reliant on executive approval, while the judiciary remains susceptible to political influence. Both countries thus face a similar problem: laws may appear strong on paper but are fragile in practice.

Comparing the two, the main difference lies in the degree of independence of anti-corruption institutions and political courage to enforce the law against elites. Indonesia's framework is more open to public participation and civil society oversight, but remains vulnerable to politicization through legislative revisions and intervention. Malaysia, by contrast, has a more centralized and hierarchical system where anti-corruption decisions are often shaped by political calculation rather than substantive justice. In both contexts, corruption is embedded within

bureaucratic and political-economic systems rather than being merely an individual legal violation.

On the other hand, several countries have successfully enforced unwritten law as an effective tool in combating corruption. Singapore, for example, emphasizes bureaucratic integrity through a culture of meritocracy, high work ethics, and strict internal oversight, even though its authorities do not rely solely on formal sanctions. Denmark and Sweden are also known for utilizing social values, public transparency, and the pressure of social norms as primary mechanisms to prevent corruption, where public awareness and a culture of professionalism serve as the main safeguards against corrupt practices. The success of these countries demonstrates that strong formal law must be complemented by the internalization of ethical values and social mechanisms that are actively lived within society.

The advantages of unwritten law compared to written law lie in several key aspects. First, unwritten law can foster deeper moral compliance because it is rooted in social norms and organizational culture, rather than merely relying on the threat of sanctions. Second, the unwritten law is more adaptable to changes in the socio-political context, allowing corruption to be prevented before it occurs, rather than merely punished after the fact. Third, unwritten law can overcome the constraints of politicization and institutional fragmentation, as compliance stems more from internalized values than from formal oversight that can be undermined by political power. Fourth, this approach promotes a culture of integrity, transparency, and accountability across all levels of bureaucracy, thereby creating a broader and more sustainable deterrent effect compared to reactive criminal law approaches. These advantages make unwritten law a strategically complementary tool to written law, particularly in countries facing political pressures and institutional weaknesses, such as Indonesia and Malaysia.

In the context of Indonesia, the main weakness lies in the lack of coherence among law enforcement institutions. The Corruption

Eradication Commission (KPK), the Attorney General's Office, and the Police are often involved in jurisdictional conflicts that result in inefficiencies in law enforcement. When inter-agency coordination depends on political relationships, the independence of the law becomes compromised. Furthermore, internal control mechanisms within government institutions are often merely formalities, lacking clear sanctions for ethical violations or abuse of authority. This renders the oversight system incapable of detecting corruption at an early stage. The required reforms are not only normative but also structural, aimed at creating an integrated, data-driven law enforcement system with strong public oversight throughout all stages of investigation and prosecution.

To strengthen law enforcement and address these weaknesses, Indonesia has taken several concrete measures, including expanding the KPK's authority through the use of e-monitoring technology for reporting gratuities, implementing the Anti-Corruption Compliance (ACC) Program in both the private and public sectors, providing integrity training for bureaucrats, and conducting anti-corruption education campaigns based on ethical values within society. Additionally, structural reforms are being implemented to establish an integrated, data-driven law enforcement system, with robust public oversight throughout all stages of investigation and prosecution.

Meanwhile, in Malaysia, the main challenge lies in the overly centralized power structure, where anti-corruption bodies, such as the MACC, are legally under the supervision of the Prime Minister. This creates serious conflicts of interest, especially when corruption cases involve figures within the circles of power. Malaysia's efforts to address this include internal reforms within the MACC to ensure full autonomy, expanding the right to prosecute independently without political interference, strengthening whistleblowing mechanisms, launching the Corporate Integrity Pledge, and improving transparency and accountability in public

procurement and political party financing. These reforms are aimed at ensuring that anti-corruption law operates not only at the administrative level but also enforces substantive justice.

Strengthening the effectiveness of anti-corruption efforts must start with redefining the basic paradigm of how law functions within power structures.<sup>49</sup> In Jakarta and Kuala Lumpur alike, the law has often been treated as a symbol of state morality rather than an effective instrument of control over political elites. In many cases, legal processes only move when there is public pressure or when political interests demand it. This phenomenon demonstrates that the law is not fully autonomous; it operates within a political space rife with negotiation and power compromise. Therefore, anti-corruption legal reform must start from the awareness that corruption is not merely a matter of individuals violating the law, but also the result of imbalanced power relations and institutions that are not impartial.<sup>50</sup>

Overall, the weaknesses of written law in Indonesia and Malaysia are not merely due to a lack of legal norms but stem from deficits in political will and legal culture. Laws can regulate behavior, but they cannot compel the emergence of integrity without deep mental, institutional, and cultural reforms. Laws not internalized within organizational culture or individual behavior produce only superficial compliance, where public officials obey rules out of fear of sanctions rather than moral awareness.<sup>51</sup> The future of anti-corruption efforts in both countries depends on the extent to which

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<sup>49</sup> Nan Zhang, 'Institutions, Norms, and Accountability: A Corruption Experiment with Northern and Southern Italians', *Journal of Experimental Political Science* 5, no. 1 (2018): 11–25, <https://doi.org/10.1017/XPS.2017.26>.

<sup>50</sup> Tatiana Kostadinova and Milena I. Neshkova, 'Personalist Leadership and Corruption: Evidence From Third Wave Democracies', *Politics & Policy* 53, no. 4 (2025): e70056, <https://doi.org/10.1111/polp.70056>.

<sup>51</sup> Suteki Suteki et al., 'Community Engagement in Eradicating Corruption: Evaluating the Effectiveness and Reward Models for Whistleblowers As a Regional Strategy', *Jurnal Pengabdian Hukum Indonesia (Indonesian Journal of Legal Community Engagement) JPHI* 8, no. 1 (2025): 23–92, <https://doi.org/10.15294/jphi.v8i1.20440>.

the law can be freed from the domination of political power and animated by the ethical consciousness of society. Only in this way can the law return to its original function: not merely as a tool for legitimizing power, but as a means to ensure substantive justice and clean governance amid the complex political landscape of Southeast Asia.

## Conclusion

Corruption in Indonesia and Malaysia demonstrates that corrupt practices are no longer merely individual crimes, but rather the result of a complex interaction between power structures, legal weaknesses, and a deeply rooted social culture. As developing countries, both face the dilemma of bureaucratic modernization without the internalization of integrity values. In Indonesia, corruption is deeply embedded in electoral politics, public procurement, and decentralization, creating opportunities for the abuse of authority. In Malaysia, practices of cronyism and economic patronage illustrate how political elites exploit legal and economic instruments to maintain power dominance.

The transformation of corruption from a legal violation into an institutionalized system shows that corruption has adapted and become embedded through networks of politics, bureaucracy, and business. Law, which should function as a control mechanism, often becomes part of the mechanism that preserves corruption itself. In Indonesia, overlapping regulations and weak law enforcement render anti-corruption efforts partial and susceptible to easy politicization. In Malaysia, although the legal framework is more structured, the independence of law enforcement institutions and political transparency remain fundamental challenges.

Both countries reveal similar weaknesses in written law, namely, reliance on a formal-legal approach without considering the surrounding

social and political context. As a result, the law does not function as a moral instrument but merely as a symbol of legitimacy. Anti-corruption legal reform in both countries must address three key dimensions: enhancing bureaucratic culture by emphasizing public integrity, reconstructing social values to change public perceptions of gratuities, and establishing business ethics based on transparency and accountability.

The policy implications are clear: anti-corruption strategies must be multidimensional, extending beyond the legal sector to include structural reform, civil society participation, and the governance of an integrity-driven private industry. Without value changes and institutional reform, the law will remain a formal framework without moral substance. Ultimately, the success of anti-corruption efforts in Indonesia and Malaysia depends not on the strictness of law enforcement but on the extent to which honesty and public responsibility can be embedded as the foundation of a sustainable political and legal culture.

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Despite the diligence and thoroughness of our research, we remain open to constructive criticism and continued dialogue. We believe that improvement is a continuous process, and feedback from others plays an essential role in refining the precision and overall quality of our work. This article is intended to promote the sharing of knowledge and to encourage discussion within academic communities and beyond. We trust it will offer fresh insights and stimulate further conversation on significant legal issues, thereby contributing to the development of more inclusive and sophisticated legal thinking in the future.

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## About Author(s)

**Dr. Adithiya Diar, S.H., M.H.**, is a lecturer at the Universitas Adiwangsa Jambi, Indonesia. He is actively involved in teaching and research, with a particular focus on criminal law and corruption. In addition to his primary academic role, he also teaches at other institutions, including the University of Jambi and Universitas Terbuka. As a dedicated academic, Adit is committed to advancing legal scholarship and contributing to society through academic publications, seminars, and community engagement. With a strong educational background and extensive professional experience, he continues to make a meaningful impact in the field of legal education and research in Indonesia.

**Tri Imam Munandar, S.H., M.H.**, is a lecturer at the Faculty of Law, Universitas Jambi, with a concentration in criminal law. Actively engaged in both teaching and research, he contributes to the advancement of legal education and the dissemination of knowledge within his field. With a solid academic foundation, he is committed to scholarly pursuits and community service, reflecting his dedication to both academia and broader societal development.

**Dr. Saidatul Nadia Abd Aziz** is an Associate Professor at the Faculty of Law, Universiti Kebangsaan Malaysia, Bangi, Malaysia. She actively publishes scientific works indexed in Scopus, focusing on human rights issues, international law, and regional legal dynamics within ASEAN.

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