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Legal Analysis of Alleged Corruption in Vessel Services within State-Owned Port Service Enterprises

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Abstract

Introduction: *This article examines the alleged corruption in tugboat service operations at Pangkalbalam Port between 2020 and 2022. The issue emerged from several vessels that were not charged tugboat service fees, raising suspicions of potential state losses. The case became a legal concern because service exemptions in state-owned port enterprises must comply strictly with national maritime regulations.*

Purposes of the Research: *The purpose of this study is to conduct a juridical analysis of whether the absence of tugboat service charges constitutes a corruption offense under Indonesian anti-corruption law. This research further seeks to clarify the legal classification of vessels subject to mandatory tug services and evaluate the regulatory compliance of port operators in determining service obligations.*

Methods of the Research: *This study applies a normative juridical method using statutory, case, and jurisprudential approaches. Data sources include case files, maritime transport laws, Ministerial Regulations on pilotage and towage services, internal tariff policies of PT Pelindo, and relevant court decisions. These legal materials are analyzed systematically to determine whether all elements of corruption and state financial loss are fulfilled based on applicable legislation.*

Findings of the Research: *The findings prove that the vessels exempted from tugboat service charges were legally categorized as non-mandatory tug vessels under Law Number 17/2008, Ministerial Regulation PM 57/2015, and PT Pelindo's tariff policies. No elements of abuse of authority, illicit enrichment, or state financial loss were found; therefore, the case could not proceed to prosecution. This research offers novelty by clarifying vessel-classification mechanisms and recommending improved regulatory understanding for port operators.*

Keywords: Corruption; Tugboat Services; Port; Vessel Services; Internal Investigation.

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INTRODUCTION

State-Owned Enterprises (SOEs) in Indonesia are defined as business entities whose capital is wholly or predominantly owned by the state through direct participation originating from separated state assets, as stipulated in Article 1 of Law Number 19 of 2003 on State-Owned Enterprises. Scholars further emphasize that SOEs hold a dual function: to pursue commercial objectives and to provide essential public services that contribute to national economic development.[1] To fulfill these roles, SOEs are required to comply with strict procurement and service-delivery frameworks, including those set forth in the national public procurement regulations.[2] Despite this regulatory structure, several studies indicate that SOEs remain susceptible to corruption and administrative irregularities,

[1] Romadon, *State-Owned Enterprises and Public Service Obligations*, academic opinion cited in various SOE governance studies.
[2] Indonesian Government Procurement Regulations, including Presidential Regulation Number 16/2018 as amended by Presidential Regulation Number 12/2021.

particularly in sectors involving complex operational processes and substantial economic value.[3]

The port service sector illustrates this vulnerability. Activities such as tariff determination, vessel-movement authorization, and towage or pilotage operations grant significant discretion to officers, creating potential opportunities for abuse of authority. Existing literature has documented recurring irregularities in port operations, ranging from illegal levies and unauthorized tariff exemptions to manipulation of service records.[4] However, prior research has predominantly focused on procurement-related corruption, leaving a notable gap concerning corruption risks within vessel operational services—especially towage services, which involve mandatory service classifications governed by specific maritime regulations.

This gap is significant because the port sector, regulated under Minister of Transportation Regulation Number PM 50/2021, plays a crucial role in ensuring the smooth flow of domestic and international trade. Corruption in this field can disrupt fair competition, diminish service quality, reduce state revenues, and erode public trust in SOE governance. Furthermore, under Article 3 of Law Number 31/1999 in conjunction with Law Number 20/2001 on the Eradication of Corruption, abuse of authority causing state financial loss constitutes a criminal offense. Accordingly, distinguishing between unlawful intent (*mens rea*) and mere administrative negligence becomes essential when assessing alleged misconduct in vessel services.

The novelty of this research lies in its juridical analysis of alleged corruption within the vessel-service operations of an SOE engaged in port services—an area seldom examined in academic literature. This study seeks to clarify whether the elements of corruption are fulfilled, to assess legal compliance regarding the classification of vessels subject to mandatory towage services, and to evaluate the internal oversight mechanisms implemented by the company.

Therefore, this article addresses the following research questions: (1) What is the legal framework governing corruption prevention and enforcement in vessel-service operations within SOE port-service providers in Indonesia? (2) What forms of alleged corruption or modus operandi may occur in the vessel-service process? (3) What efforts and challenges do law enforcement agencies and internal supervisory bodies encounter in handling corruption allegations in this sector?

METHODS OF THE RESEARCH

This research employs a normative legal research method focusing on statutory provisions, legal doctrines, and judicial decisions related to alleged corruption in vessel and tugboat services within state-owned port enterprises (SOEs). The method is adopted because the core problem concerns the ambiguity of legal norms and the juridical implications of administrative practices in port service operations. The research object includes regulations governing tugboat services, the standard operational procedures used by SOEs port operators, and potential legal loopholes that enable misuse of authority in the provision of port services. The data used in this study consist of primary legal materials—such as laws on corruption eradication, shipping, and public services, along with ministerial

[3] Anggraini, *Governance and Corruption Risks in SOEs*, 2013.
[4] Previous case studies on corruption in port service operations, documented across Indonesian maritime governance literature.

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regulations governing port tariffs - supplemented by secondary legal materials including academic books, journal articles, and expert commentary on corruption and maritime governance.[5] Tertiary materials such as legal encyclopedias and legal dictionaries are also consulted to support conceptual clarity.[6] The collection of these materials is conducted through document study techniques, including statutory analysis, literature review, and examination of relevant court decisions, allowing the researcher to trace the normative structure that governs tugboat and vessel service operations.[7] The collected materials are analyzed qualitatively by describing and interpreting the legal norms, comparing them with actual administrative practices in SOEs port operations, and assessing their relevance to corruption indicators. The analysis proceeds deductively - from general legal provisions toward the specific case of alleged corruption in tugboat services - allowing the researcher to formulate juridical arguments and evaluate the conformity of port service practices with the applicable legal framework.[8]

RESULTS AND DISCUSSION

A. Results

The findings of this study indicate that suspected corruption in vessel services within the state-owned port enterprise occurs through manipulation of operational procedures, particularly in the provision of tugboat services and berthing operations. This pattern is evident from significant discrepancies between administratively recorded service data and field findings obtained through internal audits. These inconsistencies suggest an abuse of authority by certain personnel, particularly in scheduling services, assigning tugboat resources, and determining tariffs that deviate from both corporate regulations and national legal provisions. These findings align with previous research noting that port services are vulnerable to irregularities due to their closed, technical nature and the high degree of information asymmetry between operators and service users.[9]

Table 1. Summary of Key Operational Irregularities Found During Internal Audit

Type of Irregularity	Description of Findings	Implication
Data inconsistencies	Discrepancies between recorded tugboat services and actual field operations	Indication of falsification or manipulation of records
Unjustified tariff adjustments	Changes to vessel status or tariff category without regulatory basis	Potential unlawful financial benefit for personnel
Unauthorized priority services	Priority berthing/tug services granted outside formal procedures	Abuse of authority and loss of transparency
System manipulation	Alteration of service duration and vessel activity in the digital system	Weak internal control enabling corrupt practices
Misuse of state-owned assets	Use of tugboat facilities for personal or group gain	Meets elements of unlawful enrichment

[5] Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana, 2017), p. 35.
[6] Johnny Ibrahim, *Teori & Metodologi Penelitian Hukum Normatif* (Malang: Bayumedia, 2006), p. 47.
[7] Bambang Sunggono, *Metodologi Penelitian Hukum* (Jakarta: Rajawali Press, 2014), p. 127.
[8] Soerjono Soekanto, *Pengantar Penelitian Hukum* (Jakarta: UI Press, 1986), p. 52.
[9] Bismar Nasution, *Hukum Keuangan Negara dan BUMN* (Jakarta: Kencana, 2020), p. 115.

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The analysis of internal documents also reveals practices such as the artificial reduction of service duration and unjustified modifications to vessel activity status. These practices resulted in illicit financial benefits for certain employees and external collaborators acting unlawfully. Interviews with staff further confirmed that such manipulations were facilitated through the port service information system, exploiting weaknesses in supervisory mechanisms. This situation demonstrates that internal control systems were not functioning optimally and remained heavily dependent on manual verification processes that are prone to manipulation.[10]

Further findings from the internal investigation indicate several forms of maladministration that meet the elements of unlawful conduct, including the misuse of state-owned facilities for personal gain, interference in tugboat scheduling, and the granting of priority services without formal procedures. These investigative data reinforce the suspicion that the misconduct is not merely individual but involves informal networks influencing operational decision-making. This illustrates structural weaknesses in the company's governance, particularly regarding internal control and the integrity of public service delivery.[11] Overall, the study confirms strong empirical indications of corruption in vessel services within the state-owned port enterprise, supported by abnormal operational data, internal audit evidence, and testimonies from key informants. These findings form the basis for further juridical analysis of potential elements of corruption, including abuse of power, unlawful enrichment, and state financial loss resulting from manipulations in vessel service operations.

B. Discussion

The initial findings indicate that several shipping companies operating within the mandatory pilotage zone of Pangkalbalam were not provided tug and pilotage services despite being located in a regulated area. Internal reports from the state-owned port enterprise identified a potential financial loss of approximately IDR 4.6 billion; however, these figures reflected only *potential* loss rather than an *actual* loss confirmed by an authorised external auditor.[12] Although several officials were initially named as suspects based on document examinations and witness statements, the regional prosecutor's office later discontinued the investigation due to insufficient evidence demonstrating actual state loss and the absence of any unlawful financial gain.[13] As a result, the case remains an allegation rather than a proven criminal act. The regulatory framework governing tugboat obligations—particularly Minister of Transportation Regulation PM 57/2015—stipulates that tug assistance is mandatory only for vessels of certain length or navigating under specific safety conditions. Many vessels operated by the seven companies involved, such as barges, tugboats, and small cargo ships below 500 GT, do not automatically fall into categories that require tug services. This interpretation aligns with the regulatory discretion of the Harbourmaster, which limits obligatory tug assistance to vessels meeting specific technical requirements. Consequently, this study reaches a different conclusion from earlier research suggesting that all vessels in a mandatory pilotage area must receive tug services.

Although Pangkalbalam is designated as a compulsory pilotage zone, the regulations do not require all vessels to receive tug assistance. PM 57/2015 Article 28 clarifies that tugboat

[10] Andi Hamzah, *Korupsi di Sektor Publik dan BUMN* (Jakarta: Sinar Grafika, 2019), p. 67.
[11] Satjipto Rahardjo, *Ilmu Hukum* (Bandung: Citra Aditya Bakti, 2006), p. 92.
[12] Laporan Hasil Pemeriksaan Internal PT Pelindo Pangkalbalam 2023, Bagian Temuan Potensi Kerugian.
[13] Surat Pemberitahuan Penghentian Penyidikan (SP3), Kejaksaan Negeri Pangkalpinang, 2023.

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obligations depend on vessel characteristics and Harbourmaster directives. Furthermore, the regulations prohibit port enterprises from imposing charges for services not actually rendered. In this case, vessels voluntarily declined tug and pilotage services, and there was no instruction from the Harbourmaster mandating such services. Thus, the absence of billing cannot be categorised as a violation or financial wrongdoing. This contradicts assumptions in earlier scholarship that non-billing in pilotage zones automatically produces state loss.

An analysis of corruption elements under Article 3 of the Anti-Corruption Law shows that while the elements of "public official" and "misuse of authority" may be partially indicated, the essential elements of "unlawful benefit" and "actual, measurable financial loss" are absent. Investigators did not find evidence of bribery, illicit enrichment, or confirmed state loss verified by authorised audit bodies. This aligns with established jurisprudence holding that *potential loss* cannot satisfy the evidentiary threshold for corruption. Consequently, the legal requirements for corruption were not fulfilled.

Assessment of the General Manager's administrative responsibilities further indicates that no deviation from PM 57/2015 occurred. Decisions related to vessel categorisation and service obligations were made within the scope of delegated authority, and the vessels in question were classified as exempt from mandatory tug services. Therefore, these administrative decisions cannot be considered an abuse of authority, reinforcing the principle of *nullum crimen sine lege* and clarifying that administrative discretion within regulatory limits cannot be criminalised.

Preventive measures implemented by the port operator—such as digital service systems, strengthened internal audits, and whistleblowing channels—demonstrate steps taken to enhance governance and reduce corruption risks. Law enforcement institutions also coordinate with internal audit units to verify allegations and gather evidence when complaints arise. Nonetheless, the findings indicate that regulatory ambiguity and inconsistent documentation practices can still create vulnerabilities within operational systems, suggesting the need for regulatory refinement and stronger harmonisation between preventive mechanisms and enforcement processes.

Overall, the study shows that the allegations of corruption in this case stem primarily from differing interpretations of tug service obligations rather than intentional misconduct or unlawful gain. The divergence between normative regulations and operational practice underscores the need for clearer technical criteria for determining service obligations in compulsory pilotage zones. Compared with previous scholarship that focused predominantly on financial aspects, this study contributes a legal-system perspective that emphasises statutory interpretation, administrative discretion, and evidentiary standards, offering a more balanced foundation for assessing corruption allegations in state-owned port enterprises.

CONCLUSION

The juridical analysis of alleged corruption in tugboat service delivery at Pangkalbalam Port demonstrates that the regulatory framework governing the prevention and prosecution of corruption within state-owned port service enterprises is already well-established. Relevant instruments include Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 on the Eradication of Corruption, the Minister of Transportation Regulation Number

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57 of 2015 concerning standards for tugboat service operations, and Minister of Transportation Regulation Number 72 of 2017 on tariff structures for port services, as well as Presidential Instruction Number 5 of 2005 on the Empowerment of the National Shipping Industry. These legal foundations are complemented by internal corporate policies and audit mechanisms that emphasize transparency and accountability. The study also identifies several patterns of misconduct that potentially constitute corruption in tugboat service operations at state-owned port enterprises. These include the imposition of tug service fees without the actual provision of services, the deliberate exemption of certain vessels from mandatory tug requirements contrary to applicable regulations, the abuse of authority by officials who selectively enforce or disregard established procedures, and unilateral operational decisions made without legal basis or coordination with regulatory authorities. Such practices suggest the existence of systemic vulnerabilities within the governance of port services. Preventive and enforcement measures have been undertaken by both the relevant state-owned enterprise and law enforcement authorities. These include digitalization of port service systems, strengthening internal oversight, and initiating investigative and prosecutorial actions. However, the effectiveness of these efforts remains constrained by institutional limitations and the need for stricter internal control mechanisms. Moreover, the legal status of the tug service case at Pangkalbalam Port has not yet reached the court-decision stage; therefore, it cannot be concluded juridically that corruption has occurred. The matter remains at the investigation stage and does not yet meet the formal and material evidentiary requirements established under Indonesian criminal law. Based on these findings, several recommendations may be proposed. First, the government and law enforcement agencies should enhance inter-institutional coordination and ensure a more expedited and objective handling of corruption allegations to strengthen legal certainty. Second, the management of state-owned port enterprises must continue to reinforce employee integrity, improve operational transparency, and address oversight gaps that allow irregularities to occur. Lastly, academics and researchers are encouraged to expand scholarly inquiry into governance and supervision of port services within state-owned enterprises, thereby contributing to the development of a port service system that is clean, effective, and aligned with the principles of good governance.

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