Preventing bribery in the private sector through legal reform based on Pancasila

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Abstract: As a participating country in the United Nations Convention Against Corruption (UNCAC) 2003, Indonesia is one of the state parties that has signed and ratified the UNCAC 2003 conference. Indonesia has the right not to comply with the arrangements in UNCAC 2003 fully. Still, looking at the current conditions, the losses caused by bribery in the private sector are about material loss, creating inefficiency, increasing crime, slowing down economic growth, worsening the image or reputation of Indonesia in the national/international investment climate so that it becomes an urgent thing to pay attention to. The research method used is the normative legal method in the form of library research carried out by collecting secondary, and tertiary legal materials. The technique of collecting materials used in this research is a literature study. The collected materials were analyzed

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qualitatively, and the authors used content analysis to classify legal materials. The results of this study indicate that bribery in the private sector must be immediately regulated in the rules regarding corruption in Indonesia, especially in the face of the industrial revolution era 4.0 and society 5.0 so that there is no legal vacuum that can be used by criminals to commit corruption. However, to make rules regarding the prevention and control of bribery in the private sector, it is mandatory to follow Pancasila (Indonesian ideology) and not leave the values of Pancasila as a source of importance in the life of the Indonesian nation.

**Subjects:** Criminal Law & Practice; Criminology - Law; Criminal Justice

**Keywords:** Bribery; Corruption; Private Sector; Pancasila; Indonesia

1. **Introduction**

The State of Indonesia is a state of law, the affirmation of this can be seen in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia (Dimyati et al., 2021). According to Daniel S. Lev, the constitutional-juridical affirmation by the founding parents as above is very appropriate because, Sociologically, various groups of Indonesian people also support or agree with the rule of law for multiple reasons. Corruption is an extraordinary crime that affects all aspects of people’s lives in a country (Li & Reuer, 2021). Etymologically corruption comes from the Latin (corrumpere), which means destroying or rotten. Meanwhile, according to some experts such as Robert Klitgaard, “*corruption is the abuse of public power for private benefit*.” (Robert Klitgaard et al., Klitgaard Dkk, 2002). Corruption has hazardous consequences for human life, both social, political, bureaucratic, economic, and individual life (Dela Rama et al., 2022). The danger of corruption for life is likened to that corruption is like cancer in the blood, so the owner of the body must always do (dialysis) continuously if he wants to live continuously (Klitgaard Dkk, 2002).

The corruption development in Indonesia is still relatively high, while its eradication is still very slow (Sumaryati et al., 2022). Corruption in Indonesia has become a virus that has spread throughout the government since the 1960. Furthermore, it is said that corruption is also related to power because, with that power, the ruler can abuse his power for personal, family, and cronies’ interests (Hiariej, 2019).

### Table 1. Source Indonesian Corruption Watch (ICW) 2018–2021

| NUMBER OF ACTIONS AGAINST CORRUPTION IN INDONESIA YEAR 2018-2021 |
| --- |
| **Semester 1 2018** | **Semester 1 2019** | **Semester 1 2020** | **Semester 1 2021** |
| 0 | 45 | 100 | 225 |
| 50 | 150 | 200 | 250 |
| 100 | 175 | 110 | 125 |
| 150 | 190 | 120 | 130 |
| **TOTAL** | **250** | **250** | **250** |
Since the Corruption Perception Index (CPI) was first launched in 1995, Indonesia is always investigated to see the level of corruption. Indonesia's Corruption Perception Index (CPI) in 2020 is at a score of 37/100 and is ranked 102 out of 180 countries surveyed. (Binhadob et al., 2021) This score is down 3 points from last year's 2019, which was at a score of 40/100. In 2019, Indonesia's CPI score was 40/100, the highest achievement in Indonesia's CPI score for the last 25 years. At the launch of the CPI in 2019, Transparency International "reminded" Indonesia to be more vigilant and continue to be committed to eradicating corruption (Suyatmiko, 2021) as shown in Table 1.

The Corruption Eradication Non-Governmental Organization, Indonesia Corruption Watch (ICW), released a report on the trend of corruption cases from semester 1, 2018, to semester 1, 2021. According to data compiled by Indonesia Corruption Watch (ICW), the number of prosecutions against corruption cases reached 209 in the first six months of 2021. This number increased by 169 cases compared to the previous year's period.

The data shows a real thing or social fact that the corruption crime (TIPIKOR) that has occurred in the State of Indonesia has been alarming and has disrupted the stability of the economy and state finances (Faisal Javier, 2021).

The people are deprived of their economic rights and live on poverty lines (Abeyagoonasekera, 2020) It also proves that the regulation of criminal acts of corruption and law enforcement has proven ineffective because there are still many loopholes that can be exploited by the perpetrators to escape, not be processed legally, to avoid legal entanglement (Jeppesen, 2019). Such as provisions regarding bribery in the private sector, illicit enrichment, trade in influence, and abuse of function which have not been regulated in Law Number wici of 1999 concerning the Eradication of Corruption Crimes (TIPIKOR), as amended by Law Number 20 of 2001 which is a big hole in eradicating corruption in Indonesia (Junior Willem John Latumeten, 2017).

One of the government’s efforts to tackle corruption is ratifying the United Nations Convention Against Corruption (UNCAC) 2003 through Law Number 7 of 2006. One of the issues regulated in UNCAC 2003 is bribery in the private sector contained in Article 21. Bribery in The private sector is an action carried out by two private parties in the form of giving or receiving promises, offers, and benefits, which should not be obtained with the aim that the parties do not do or do something that violates their obligations. It is no secret that corruption always has a terrible impact (Gillanders & Neselevska, 2018). Not only at the government level but also in the private sector (even in every sector). Furthermore, Harriet Kemp once stated (Suyatmiko, 2021):

"The effects of corruption on society are well documented. Politically it represents an obstacle to democracy and the rule of law; economically, it depletes a country’s wealth, often diverting it to corrupt officials’ pockets. At its core, it puts an imbalance in how business is done, enabling those who practice corruption to win . . . Corruption is not a victimless crime; it leads to decisions being made for the wrong reasons . . . In the worst cases, corruption costs people freedom, health, human rights, and their lives. It may also cost companies”.

Bribery in the private sector is also very contrary to the values of Pancasila, which support religious justice, humanitarian justice, and social justice. As a legal ideal, Pancasila must animate all laws and regulations in Indonesia, and legal reform in eradicating criminal acts of corruption must be imbued with Pancasila.

The problem in this research is looked at by not criminalizing bribery in the private sector into Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption, law enforcement against criminal acts of corruption is getting weaker. Therefore, it is possible that in the future, it will be a gap in justifying corrupt behavior in the jurisdiction of the Republic of Indonesia.
2. Methodology
Legal research conducted by examining library materials or secondary data alone can be called normative legal research or library law research. Normative legal research is in the form of library research carried out by collecting primary, secondary, and/or tertiary legal materials. To get answers or solutions to problems (legal issues) that have been formulated, four models of problem-solving approaches can be used, namely: The statute approach, conceptual approach, comparative approach, and historical approach (Marzuki, 2005). The nature of the research used in this study is descriptive-prescriptive (Soekanto, 1984). The technique of collecting materials used in this research is a literature study. The literature study was carried out by identifying literature in legislation, books, official documents, papers, and several other sources related to this research (Rianto Andi, 2005) For all the materials that have been collected, the authors process and analyze the materials that have been collected. Material management and material analysis are carried out in stages by managing materials first. The materials that have been collected are analyzed qualitatively, namely, a way of thinking that is based on general materials obtained and then drawn to specific conclusions (Sunggono, 1997).

3. Discussion and findings

3.1. The urgency of regulation on the private sector bribery in Indonesia
Corruption is the reality of acts of deviation from social and legal norms that are not desired by the community and are threatened with sanctions by the State (Lukito, 2016). Corruption is a form of abuse of position, power, the opportunity to fulfill one's interests, and groups against common interests (Lukito, 2015). Atomistically, corruption is widespread in power oligarchs because: (1) there is no moral or technical competence, and (2) the leader becomes the patron of crime (Soemanto, 2014).

Jack Bologne said that greed is the root of corruption cases. He explains the content of this theory by using the acronym “GONE”: Greedy (G), Opportunity (O), Needs (N), and Expose (E). If these four variables are combined, it will be easier for someone to commit a criminal act of corruption. The greed supported by the wide opening of opportunities and reinforced by the need will move a person's desire to commit acts of corruption (Wilhelms, 2018).

Based on the World Economic Forum (WEF) report, Indonesia ranks 46th out of 142 countries surveyed in economic competitiveness. Indonesia's position is lower than that of several neighboring countries, such as Singapore (2), Malaysia (21), Brunei (28), and Thailand (39). One of the causes is related to corruption and ethical issues, which ranks 69th (score 3.24).

United Nations Convention Against Corruption (UNCAC) 2003 requires participating countries to implement anti-corruption programs by harmonizing national laws and regulations by this agreement. The UNCAC 2003 program is carried out to achieve the goals set by UNCAC 2003 (Putra & Prahassacitta, 2021). UNCAC states that based on the legal principles of the countries participating in the convention, bribery in the private sector must be immediately criminalized, in the sense of being promulgated for an unlawful act in a criminal act of corruption (TIPIKOR; Muzila et al., 2012).

It is relatively easy to catch a suspect in the bribery of a public official. Because the Corruption Eradication Commission (KPK) already has legal weapons to target suspects in bribery cases. There are Article 5, Article 6, Article 11, Article 12 letters a, b, c, and Law Number 31 of 1999, amended by Law Number 20 of 2001 concerning Eradication of Criminal Acts of Corruption. Meanwhile, bribery, which purely occurs in the private sector, does not yet exist in the laws or regulations in Indonesia. Even though bribery in the private sector is regulated in Article 21 of UNCAC 2003, which reads:

“Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as criminal offenses when committed intentionally in the course of economic, financial, or commercial activities:
Forms of corruption in the private sector include licensing issues, procurement of goods and services, money politics, bribery, and stealth articles. Stealth articles are articles in the Draft Law (RUU) that are included in the text on the role of the private sector. Articles of this kind can even appear in legal products, such as Ministerial Regulations.

Enron, Global Crossing, and WorldCom scandals in the United States a few years ago are examples of fraud committed by private companies. The scandal had a snowballing effect across the world and global corporations and undermined public confidence in the integrity of the business (Yuntho, 2009). Examples of bribery cases in the private sector in Indonesia, In 2017, there was a corruption case at PT Garuda Indonesia (Persero) Tbk. The Corruption Eradication Commission (KPK) has named two suspects in this case. The first suspects are Emirsyah Satar, former President Director of PT Garuda Indonesia (Persero), Tbk, from 2005 to 2014, and the second suspect is Soetikono Soedarjo, the beneficial owner of Connaught International Pte. Ltd., a company in Singapore. Emirsyah Satar is suspected of receiving bribes from British aircraft engine manufacturer Rolls Royce related to the procurement of aircraft engines for aircraft owned by PT Garuda Indonesia (Persero), Tbk for the period 2005 to 2016 with the intermediary of Soetikono Soedarjo. Emirsyah Satar is suspected of receiving bribes of 1.2 million euros and 180 thousand US dollars and goods worth 2 million US dollars (Vidya Prahasacitata, 2017).

Within the UNCAC 2003 framework, the alleged corruption case involving Rolls Royce with the suspects Emirsyah Satar and Soetikono Soedarjo should be viewed within the UNCAC 2003 framework, which Indonesia has ratified through Law Number 7 of 2006 concerning Ratification of the United Nations Convention Against Corruption, 2003. The alleged corruption case is part of bribery in the private sector as regulated in Article 21 of UNCAC 2003 and bribery of foreign public officials as regulated in Article 16 of UNCAC 2003. Unfortunately, Indonesia has not adopted provisions regarding bribery in the private sector in Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption as amended by Law Number 20 of 2001 (Vidya Prahasacitata, 2017). Moreover, many corruption cases, such as bribery in the private sector, still occur in Indonesia and are not revealed because of the weakness of the rules. Corruption in the private sector has an impact on companies and has an impact on the State. For companies, corruption increases costs for bribes or building corrupt networks. Furthermore, these costs are passed on to consumers through higher prices and lower-quality products and services (Imentari Siin Sembiring & Pujiyono, 2021).

As a member state of UNCAC 2003, which has signed and ratified UNCAC 2003, Indonesia does not fully follow UNCAC 2003 (Umari et al., 2019). This is not entirely wrong, considering that of the eleven acts criminalized in UNCAC 2003, some are mandatory offenses, and some are non-mandatory offenses (Andreas Nathaniel, 2015). However, it is crucial in preventing and tackling crime, especially corruption, in the era of the industrial revolution 4.0 and society 5.0 as it is today. It is troubling and has become an essential point of law enforcement (Goel et al., 2014).

Bribery in the private sector itself is the same as bribes in the public sector, only the party receiving the bribe (passive bribery) is not a public official, and the party receiving the bribe acts something (commission) or does not act something (omission) that is contrary to his obligations (Andreas Nathaniel, 2015). The losses caused by bribery in the private sector are in terms of the amount of money and create inefficiency, increase crime, slow down growth, and worsen the
image and national investment climate at a macro level (Wedeman, 2012). An example of bribery in the private sector is a part of a private company that is given some money by one of the prospective job applicants so that the briber can work in the private company with all the conveniences. Both parties agree and have the same intention (meeting of mind; Owusu et al., 2021). It is included in the category of bribery in the private sector.

Bribery in the private sector has been regulated in the Draft Law on Corruption Crimes Article 7 paragraph (1), which reads:

“Any person who knowingly promises offers or gives, directly or indirectly, an undue advantage to a person who manages or works, in any position, for a private sector entity, for himself or another person, for him to act or withhold act in carrying out his official duties, shall be punished with a maximum imprisonment of 5 (five) years”.

However, until now, the bill on corruption has not been ratified, even though running a business requires compliance, ethics, and trust in the private sector. Meanwhile, the Corruption Eradication Commission (KPK), as an anti-corruption agency based on Article 6 of Law Number 19 of 2019 concerning the Corruption Eradication Commission, is only authorized to take action against acts that are included in corrupt activities and cannot be outside the rules (such as bribery in the private sector). So Indonesia needs to regulate bribery in the private sector in Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption in order to create harmonization between the KPK, the Indonesian National Police, and the Attorney regarding law enforcement in the bribery category in the private sector, which has been categorized as a criminal act of corruption as regulated in Article 21 of UNCAC 2003. Transparency International explains that “Corruption in the private sector takes many forms, including bribery, undue influence, fraud, money laundering, and collusion.” (Acch, 2021).

3.2. Preventing bribery in the private sector with pancasila values

Indonesia is a plural country, rich in culture, language, ethnicity, and culture.(Chia, 2022) This diversity does not then make the Indonesian people become a dispersed nation but can coexist peacefully and harmoniously. This harmony is evidenced by polite people, mutual respect, and helping other community groups (Gillespie, 2022).

Such behavior of the Indonesian people illustrates that this nation highly upholds moral-religious values. Respect for these moral values is reflected in the ideology of the Indonesian nation, namely Pancasila. The religious and moral values contained in the first precepts mandate that the Indonesian nation’s morals manifest God’s teachings. The second precept, which has human-moral values, conveys the message that the morals of the Indonesian nation greatly respect and respect human rights, likewise with the moral value of unity in the third precept, which highly upholds the unity of the entire Indonesian nation (Ha et al., 2021).

Furthermore, the fourth precept is a statement about the moral value of deliberation that teaches the Indonesian people the importance of respecting and treating humans/people/citizens as individuals with the same degree and position. It ends with moral justice in the fifth precept, which contains the importance of regulating relations between citizens and power to achieve justice for all Indonesian people (Jiang & Min, 2022).

Pancasila is the source of all sources of state law (staatsfundamental norm). Pancasila is also referred to as the crystallization of values that lived and developed in the archipelago before the emergence of the Unitary State of the Republic of Indonesia (NKRI) and is considered the most crucial democratic achievement that became the founding father of the Indonesian State (Fernando, 2020). So that all things, including the behavior of society, rules, and government, must comply with these values, including the prevention and eradication of corruption.
Indonesian Constitutional Law expert, former Constitutional Justice, and now serving as MENKOPOLHUKAM of the Republic of Indonesia Mahfud MD, in his book Building Legal Politics, Upholding the Constitution, says there are two reasons why Pancasila is inviolable as a nation’s ideology:

(a) Pancasila is considered very suitable to be used as a platform for everyday life for a very diverse Indonesian nation to remain closely bound as a unified nation;

(b) Pancasila is contained in the Preamble to the 1945 Constitution, which includes the declaration of independence by the Indonesian people. If Pancasila is changed, the Preamble to the Constitution is amended (Mahfud MD, 2012).

Jimmy Asshidiqie implicitly emphasized that Pancasila has a different characteristic style: Pancasila, as the ideology of the Indonesian nation, has differences from the liberal-capitalism system and communist socialism (Herlambang, 2019). Pancasila recognizes and protects individual and community rights in the economic and political fields (Morfit, 1981). Thus our ideology recognizes in harmony both collectivism and individualism. The democracy that is developed is not just political democracy as in liberal-capitalist doctrine, but also economic democracy (Asshidiqie, 2005).

Based on the Corruption Eradication Commission's annual report, bribery cases are corruption cases with the highest percentage, 65.86% (Wirajung Dkk, 2021). The number of corruption cases handled by the KPK in 2004–2020. The private sector carried out a total of 297 corruption cases (WM, 2021). Moreover, in all countries in the world experiencing the same thing that bribery is the most common corruption behavior (Weisel & Shalvi, 2022).

Indonesia is inferior to many other countries. Bribery in the private sector is regulated in many countries and carries its criminal penalties, both in the Criminal Code and in separate laws. For example: since 1967, the Netherlands has included a policy of criminalizing bribery in the private sector in its Criminal Code. In 2016, Switzerland also incorporated a policy of criminalizing bribery in the private sector into its Criminal Code. In the UK, bribery in the private sector has been included in the Anti-Bribery Act of 2010. In addition, neighboring Malaysia already has special laws related to bribery in the private sector, namely the Anti-Corruption Law of 2009. In these countries, bribery in the private sector is regulated because it is considered very damaging and detrimental to the business sector (Winarta, 2022).

The government seems to have forgotten law enforcement in eradicating bribery in the private sector. It is not clear why Indonesia so quickly “forgets” this provision. The conception of bribery should not only be seen as occurring in the public sector and can only harm the public interest. The absence of law enforcement on bribery in the private sector kills people’s “passion” to compete in various sectors, just as the absence of law enforcement on bribery in the public sector kills public trust in public servants (Haikal Ramadhan, 2022). Therefore, the government needs to evaluate itself and find out why Indonesian law enforcement officials have never been firm and consistent in punishing bribers in the private sector and must immediately make regulations regarding this matter. This is because a government official has the authority to make decisions and every decision taken by a government official is ultimately a legal responsibility (Haikal Ramadhan, 2022).

Law Number 30 of 2002, in conjunction with Law Number 19 of 2019 concerning the Corruption Eradication Commission (KPK), limits the authority of the Corruption Eradication Commission (KPK) only to be able to carry out the task of eradicating Corruption Crimes. Although, in theory, bribery in general (to public officials and the private sector) is included in the category of Corruption Crimes, in Indonesia’s positive law, Corruption is regulated in the Anti-Corruption Law (Haikal Ramadhan, 2022).
Pulling the link between the private sector's bribery phenomenon and Pancasila's existence as the nation's philosophy of life is not impossible. In other words, making Pancasila an ideology to fight all crimes, including the crime of bribery in the private sector, which has happened so much in this country, is not impossible because Pancasila has an extraordinary moral view contained in its precepts (Ihsan & Fatah, 2021). Pancasila is the source of identity, personality, morality, and the direction of the nation's safety. Pancasila has an basis for morality and national direction (Wisnaeni & Herawati, 2020). Each precept has historical, rational, and actual justifications that are understood lived, believed, and practiced. Pancasila is a source of anti-corruption values. The values contained in Pancasila that can prevent and eradicate corruption, in this case, bribery in the private sector, are as follows (Sianturi & Dewi, 2021):

(a) The Value of God Almighty

As the Indonesian nation, we should be fully aware that the Republic of Indonesia has a principle to regulate its people through rules and the principle, which should start with each individual and how the individual should act by the norms prevailing in society (Masrukhin et al., 2021). Divinity values mean that all human activities must always be based on religious norms, teachings, and morals, including activities in the corporate world, and must not conflict with existing norms. Belief and belief in God Almighty should be followed by piety towards Him, namely by carrying out what is commanded and staying away from His prohibitions. Bribery in the private sector is the same as bribery in the public sector (corruption). Only the party who receives the bribe (passive bribery) is not a public official, and the party receiving the bribe acts something does not act something contrary to his obligations. This is something that violates the command of God Almighty.

(b) Fair and Civilized Human Values

Human values in respect of human rights are also fundamental to be internalized in criminal acts of corruption, such as bribery in the private sector. This means that carrying out all actions in society that private parties, including bribes, carry out is not allowed and is contrary to matters relating to humanity. More profoundly, the view of divinity, as previously mentioned, also has implications for the meaning of just and civilized human precepts (Boiliu et al., 2022). The spirit of divinity encourages the growth of awareness in society to elevate the dignity of Indonesian human beings in a just and civilized manner, with the private sector not accepting bribes, not harming other parties, etc. Such a fair nature will make humans and legal entities that carry out activities in the private sector civilized legal subjects. Be fair to oneself, others, and society, for example, in carrying out activities, especially in the private sector, not taking bribes, not harming other parties, etc. Such fair nature will lead humans and legal entities to civilized legal subjects.

(c) The Value of Indonesian Unity

Fundamental values have been mutually agreed upon between community groups with the motto “Bhinneka Tunggal Ika", which means that although they are different, they are still one. With this motto, it is hoped that differences between ethnic groups, customs, languages, and religions in Indonesia do not bring disaster but benefits. Corruption is a crime that is said to be an extraordinary crime or a serious crime that can divide unity and have a broad impact.

(d) People’s Values Led by Wisdom in Representative Deliberations

In Pancasila's perspective, the principle of sovereignty does not require a situation where the majority of political elites dictates a decision that is important for the people's interests, people in business, or others and vice versa by a substantial minority, mainly if it is dictated
by forces from abroad, both the State and corporations. In the current practice of our nation’s life, the sovereignty of the people has been mortgaged with the supremacy of money in its various manifestations, which are mushrooming like something challenging to overcome, even though in the nation’s philosophy of life, namely Pancasila, it has taught that the people are the highest institution in this country. This can be interpreted that the orientation of policies and decisions must be in the interests of the people by the people and for the people, not for self, group, or corporate interests. Taking sides with the people’s interests is guided by wisdom through the media of deliberation and consensus. This can be interpreted as an understanding that the ethical orientation of a policy or decision-making must be built through a far-sighted perspective, not only considering its impact in the world but also in the afterlife, including bribery in the private sector. Likewise, policies or decisions taken together must be accountable to God and fellow human beings.

(e) The Value of Social Justice for All Indonesian People

The value of social justice for all Indonesian people contains the meaning as the basis and the goal, namely the achievement of a just and prosperous Indonesian society both physically and mentally. In the Pancasila perspective, the realization of social justice must simultaneously be an actualization of religious and human values and national ideals that uphold the sovereignty of the people. This means that the State, in this case, protects the people or society against violations and crimes in any form, such as corruption, especially bribery in the private sector. Social justice focuses on the balance between individual justice and social justice. The 2003 UNCAC and the Corruption Crime Bill are by the values contained in the 5th precepts of Pancasila: Social Justice for all Indonesian people. In this case, it emphasizes upholding “equality before the law”, meaning that when the government or the private sector, through humans or legal entities, commit criminal acts of corruption, they must be dealt with (without exception) and given sanctions for the sake of upholding the law in Indonesia.

Harriet Kemp argues that:

“The effects of corruption on society are well documented. Politically it represents an obstacle to democracy and the rule of law; economically it depletes a country's wealth, often diverting it to corrupt officials’ pockets and, at its core, it puts an imbalance in the way that business is done, enabling those who practise corruption to win … Corruption is not a victimless crime; it leads to decisions being made for the wrong reasons … Corruption costs people freedom, health and human rights and, in the worst cases, their lives. It may also cost companies” (Acch, 2021).

Furthermore, the Organization for Economic Co-operation and Development (OECD), which works and promotes policies that positively impact the economic and social sectors, also explains the emergence of inefficiency in corruption cases in the private sector.

“First, bribes and drawn-out negotiations to bargain them add additional costs to a transaction. Second, corruption brings with it the risk of prosecution, important penalties, blacklisting and reputational damage. Third, engaging in bribery creates business uncertainty, as such behaviour does not necessarily guarantee business to a company; there can always be another competing company willing to offer a higher bribe to tilt the business in its favour. On the macro level, corruption distorts market mechanisms, like fair competition and deters domestic and foreign investments, thus stifling growth and future business opportunities for all stakeholders” (Acch, 2021).

Regarding the destructive impact of corruption on the private sector, the Klynveld Peat Marwick Goerdeler Firm (KPMG) India chapter once surveyed Bribery and Corruption related to its impact on the economy and business. As for the report, KPMG stated:
“Respondents opined that the biggest impact of corruption on business is its tendency to skew the level playing field and attract organisations with lesser capability to execute projects. Such practices could have a serious impact on efficiency and the quality of delivery resulting in increased costs, a point again highlighted by 99 percent of respondents.” (Acch, 2021).

From this description, we can see that acts of corruption are fatal acts for the state, especially acts of corruption that have violated and deviated from the noble values contained in Pancasila. By diverting acts of corruption against the noble values of Pancasila, the condition of our country is getting worse, and there are many very severe noises. Therefore, we must do everything by the values contained in Pancasila, especially for officials, so that when they do something, they do not cause deviations that have a terrible impact on the country (Kusnawi & Hendra Wijaya, 2021).

Thus, the cultivation of Pancasila values needs to be carried out for the sake of upholding the law in Indonesia, for the sake of maintaining certainty, benefit, and justice, preventing and eradicating a violation and crime, in this case, for example, eradicating and preventing bribery in the private sector, cannot be separated from Pancasila as the nation’s ideology (Nor et al., 2022). The fundamental values contained in Pancasila are transformed into legal ideals and legal principles, which are then formulated in the concept of Indonesian national law to realize the value of justice, protect the entire Indonesian nation and all Indonesian bloodshed in the field of anti-corruption enforcement, especially cases related to the eradication and prevention of bribery in the private sector. The relationship between law and ideology cannot be separated from two fundamental topics: the influence of ideology on law and law as a tool to protect ideology. So that the determination of Pancasila as the applicable norm, then the creation of rules, their practice cannot be separated from the values that exist and are contained in Pancasila.

The position of Pancasila as the State Ideology can be detailed as follows (Kaelan, 2013):

(a) Pancasila, as the basis of the State, is the source of all sources of Indonesian law. Thus, it can be interpreted that Pancasila is the basis for all activities that are not by Pancasila, including crimes that can be committed and eradicated for the welfare and prosperity of the people;

(b) Covers the mystical atmosphere (Geistlichenbintergrund) of the 1945 Constitution. In the sense that each rule must not conflict with the Pancasila ideology, whether it is regulation for individuals or legal entities (corporations);

(c) They embody legal ideals for the fundamental law of the State (both written and unwritten basic laws). Here it is clear that Pancasila is used as a benchmark for making a regulation. When regulation is deemed not by Pancasila and only benefits individuals, or specific groups, then the regulation will automatically fail;

(d) It contains norms that require the Constitution to include content that obliges the government and other state administrators (including party organizers and functional groups) to uphold the noble moral ideals of the people. It can be interpreted that favorable rules or policies that benefit illegally can be penalized when clear evidence is found;

(e) A source of enthusiasm for the 1945 Constitution, for state administrators, and government administrators. Every state administration function does not need to hesitate and be afraid when preventing or preventing the occurrence of all forms of crime because Pancasila protects and guarantees this by the values contained in the nation’s philosophy.

Enforcement of anti-corruption policies in both the public and private sectors is an essential pillar in facilitating the social and legal progress of the State in Indonesia. A concerted effort is needed to tackle corruption, especially in the private sector, by agreed international standards such as UNCAC 2003 (Aloumi, 2022).
4. Conclusion
Catching a suspect in bribery of a public official is relatively easy. Because the KPK already has legal weapons to target suspects in bribery cases. There are Article 5, Article 6, Article 11, Article 12 letters a, b, c, Law Number 31 of 1999, amended by Law Number 20 of 2001 concerning Eradication of Criminal Acts of Corruption. Meanwhile, the crime of bribery that purely occurs in the private sector does not yet exist in the laws or regulations in Indonesia. Bribery in the private sector has been regulated in the Draft Law on Corruption Crimes Article 7 paragraph (1). However, until now, the bill on corruption has not been ratified. Bribery committed in the private sector is a form of implementation of abuse of authority and acts against the law. Even though bribery in the private sector is regulated in Article 21 UNCAC 2003, bribery in the private sector must be reclassified as a criminal act of corruption in Indonesia. The eradication of corruption in Indonesia will not be completed entirely if the government does not participate in eradicating bribery that occurs systematically in the private sector and extends to various fields of life such as economic sector, social sector, religious sector, and cultural sector. Legislation regarding bribery in the private sector must be formulated comprehensively, as well as accommodate all provisions in UNCAC 2003. Only then will the anti-corruption national movement become even more powerful and difficult to contain.

As good citizens, people do not only understand the values of Pancasila, but can also implement them in everyday life. For this reason, it is necessary to instill Pancasila (precepts 1–5) as an ideology nation in preventing and eradicating criminal acts of corruption, especially in this case, bribery in the private sector which has not been regulated in the corruption crime act, by way of developing the values of Pancasila life in oneself, society, nation, and State, which is fundamentally based on the element of belief that Pancasila is the correct ideology in law enforcement efforts in the field of eradicating corruption. The fundamental values contained in Pancasila are transformed into legal ideals and legal principles, which are then formulated in the concept of Indonesian national law to realize the value of justice, protect the entire Indonesian nation and all Indonesian bloodshed in the field of anti-corruption enforcement, especially cases related to the eradication and prevention of bribery in the private sector. The relationship between law and ideology cannot be separated from two essential topics: the influence of ideology on law and law as a tool to protect ideology.

5. Suggestion
The government and the Representative Council must propose and review provisions on corruption in the private sector in the Draft Criminal Code or the Corruption Crime Act because this is a changing character of dynamic criminal law, both in terms of place, space, and time. This criminal law reform not only considers the factors and principles of proportionality and subsidiarity but also considers the influence of globalization in the economic field and its impact and effect on legal and economic competence.

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