

Institutionalizing Non-Domination Principle in Anti-Corruption Reform of Indonesia's Energy Governance

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ABSTRACT

Corruption in energy governance in Indonesia reveals an imbalance of power between bureaucratic actors, corporations, and the public, giving rise to a form of structural domination that is difficult to overcome through conventional administrative approaches. This study offers a theoretical contribution by applying the principle of non-domination in republicanism theory as an analytical framework to understand the roots of this domination and assess the weaknesses in institutional design that enable corrupt practices, particularly in oil procurement and imports. Through a normative juridical method combined with doctrinal analysis and a case study of corruption at Pertamina during the 2018–2023 period, this study finds that corruption not only causes fiscal losses but also reduces the state's capacity to regulate the supply chain, deepens dependence on private and foreign actors, and weakens economic sovereignty as intended by Article 33 of the 1945 Constitution. The results of the study identify three institutional mechanisms that can operationalize the principle of non-domination in energy governance, namely procedural openness, independence of supervision and management of state-owned enterprises, and public objection mechanisms to review energy policies. These findings emphasize that anti-corruption reform requires a reconstruction of power structures, not just increased administrative

compliance. This research contributes to the literature by combining republicanism theory with energy law and anti-corruption studies, while also opening space for further research on the application of the non-domination framework in other energy sub-sectors and in the governance of strategic resources in developing countries

Keywords: *Corruption; Economic Sovereignty; Energy Governance; Republicanism*

I. INTRODUCTION

The energy and extractive sectors have a high level of corruption risk, particularly in the form of bribery, procurement contract manipulation, and collusion between the government and private actors. Corruption in this sector is a complex legal issue.¹ Because it involves power relations between the state, business actors, and public officials, which often opens space for the domination of certain actors in strategic decision-making in the energy sector. One example of corruption in oil procurement by PT Pertamina, Subholding, and Cooperation Contractors (KKKS) for the 2018-2023 period is a concrete example of how strategic policies in the energy sector have caused state losses of IDR 193.7 trillion.² The large amount of state losses in the energy sector due to corruption will erode economic resources and reduce the state's ability to manage energy for public welfare. The impact of this corruption is extensive, ranging from state financial losses, increased energy inequality, to a weakening of national economic competitiveness. In addition, corruption in energy governance not only reduces the efficiency of the sector but also increases the state's dependence on foreign companies, which can threaten national economic sovereignty.

In Robertus Robet's view, the concept of republicanism emphasizes the importance of people's sovereignty and democratic control over the management of public resources to prevent domination by economic and political elites,³ such as natural resources. In the

¹ Suhariyanto, Didik, et al. "Pengelolaan Participating Interest Wilayah Kerja Migas Oleh Badan Usaha Milik Daerah." *The Juris*, vol. 8, no. 1, June 2024, pp. 141–46. *ejournal.stih-awanglong.ac.id*, <https://doi.org/10.56301/juris.v8i1.1244>.

² Rosa, Maya Citra. "Korupsi Pertamina Rp 193,7 Triliun Hanya 2023, Berapa Kerugian Selama 5 Tahun?" *KOMPAS.com*, 27 Feb. 2025, <https://www.kompas.com/sumatera-utara/read/2025/02/27/083325888/korupsi-pertamina-rp-1937-triliun-hanya-2023-berapa-kerugian>.

³ Robert, Robertus. *Republikanisme*. CV Marjin Kiri, 2021.

context of energy governance, corrupt practices reflect the loss of public control over energy policies that should prioritize the interests of the wider community. However, when decision-making only benefits the interests of a handful of actors who have economic and political power, the objectives of natural resource management are certainly not in accordance with the constitutional mandate as stated in Article 33 paragraph (3) of the Constitution of the Republic of Indonesia, which states that:

“The earth, water, and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people.”

This constitutional mandate emphasizes that the state not only has the authority, but also the obligation to ensure that every strategic decision in the energy sector is under public control and directed towards shared prosperity. Therefore, the role of the government in energy management is very important in terms of economic development and maintaining a country's energy sovereignty.⁴ Such management must emphasize the importance of accountability, transparency, and public participation in policymaking to ensure that the country's resources are managed for the common good, not just for certain elites.⁵ In the energy sector, the application of this principle is essential to avoid abuse of power and corrupt practices, which are often major obstacles to ensuring fair and sustainable access to energy.⁶

The principle of good governance in the energy sector requires accountability and transparency in every policy issued by the government. Law No. 1 of 2025 on State-Owned Enterprises (SOEs) emphasizes that SOEs have a strategic role in the national economy and must be managed based on the principles of good corporate governance. However, cases of corruption in Pertamina's oil governance show a failure to implement these principles, particularly in terms of oversight and accountability of decision-makers.

⁴ Drobush, Iryna, et al. “Ensuring State Sovereignty As A Guarantee Of The Country’s Economic Development.” *Baltic Journal of Economic Studies*, vol. 11, no. 3, Aug. 2025, pp. 212–21. www.baltijapublishing.lv, <https://doi.org/10.30525/2256-0742/2025-11-3-212-221>.

⁵ Sari, Ade Risna. “The Impact of Good Governance on the Quality of Public Management Decision Making.” *Journal of Contemporary Administration and Management (ADMAN)*, vol. 1, no. 2, Aug. 2023, pp. 39–46. journal.literasisainsnusantara.com, <https://doi.org/10.61100/adman.v1i2.21>.

⁶ Sovacool, Benjamin K. “Expanding Carbon Removal to the Global South: Thematic Concerns on Systems, Justice, and Climate Governance.” *Energy and Climate Change*, vol. 4, Dec. 2023, p. 100103. *ScienceDirect*, <https://doi.org/10.1016/j.egycc.2023.100103>.

Legal uncertainty due to weak oversight of the energy sector can hamper investment and lead to inefficiency in national energy supply. Empirical studies show that countries with high levels of corruption in the energy sector tend to have more expensive energy prices and uneven distribution.⁷

From this description, it can be understood that corruption in the energy sector is a multi-layered problem that requires handling from various dimensions. The causes are not only weak internal governance and ineffective external supervision, but also political intervention that allows certain actors to dominate the decision-making process. This situation shows that corruption is not only financially detrimental but also erodes public trust and weakens the state's ability to maintain strategic control over the energy sector. Recent developments confirm that corruption prevention efforts need to be strengthened through structural reforms and increased transparency⁸ so that energy management is not controlled by the interests of a handful of actors.

Research in the field of energy has been conducted by academics and researchers, including Admojo et al., who examined the failure to implement Good Corporate Governance (GCG) in the 2018–2023 Pertamina corruption case, highlighting the weak accountability, transparency, independence, and effectiveness of the three lines of defense as factors that triggered systemic corruption in the state-owned energy company. The analysis was conducted through a qualitative case study based on legal documents, supervisory reports, and governance literature, resulting in recommendations for strengthening the whistleblowing system, reforming organizational culture, evaluating the implementation of ISO 37001, and improving internal and external supervision. This study contributes to mapping the structural vulnerabilities of corporate governance in the aftermath of the scandal.⁹

The fundamental difference with this study lies in its theoretical orientation, as previous studies positioned Good Corporate Governance (GCG) as a technocratic

⁷ Gani, Azmat. "Sustainability of Energy Assets and Corruption in the Developing Countries." *Sustainable Production and Consumption*, vol. 26, Apr. 2021, pp. 741–51. *ScienceDirect*, <https://doi.org/10.1016/j.spc.2020.12.023>.

⁸ AGU, J. C., et al. "Governance and Anti-Corruption Measures in Nigeria: Strategies for Enhancing Transparency, Accountability and Public Trust." *International Journal of Economics and Public Policy*, vol. 8, no. 1, 2024, pp. 1–15. *eprints.gouni.edu.ng*.

⁹ Admojo, Muhammad Yansen Suryo, et al. "Implementasi Good Corporate Governance Dalam Menanggapi Tindak Korupsi Study Kasus PT Pertamina." *Innovative: Journal Of Social Science Research*, vol. 5, no. 4, July 2025, pp. 970–80. *j-innovative.org*, <https://doi.org/10.31004/innovative.v5i4.19232>.

instrument for mitigating corruption, while the author's study uses a republicanism framework and the principle of non-domination, which emphasizes power relations, oligarchic domination, and the loss of public control over energy, which are normative dimensions that were not touched upon in previous studies. The application of the principle of non-domination in republicanism is relevant as a normative framework to ensure that energy policy is free from arbitrary control and remains under public control, so that economic sovereignty can be maintained more effectively. This study aims to analyze how the principle of non-domination in the concept of republicanism can be used as a normative framework to overcome corrupt practices in the energy sector and strengthen economic sovereignty through more transparent and accountable governance.

II. DISCUSSION

1. The Impact of Corruption in the Energy Sector

Based on a report by the Attorney General's Office of the Republic of Indonesia, the import of crude oil and fuel carried out by PT Pertamina Patra Niaga and PT Kilang Pertamina Internasional during the period 2018–2023 involved intermediaries or brokers, without sufficient clarity regarding the basis for disregarding the use of domestic production.¹⁰ This practice causes financial inefficiency for the state because purchasing energy products through intermediaries makes import prices more expensive¹¹ if directly or by prioritizing domestic supply. This situation increases the budget burden and reduces the effectiveness of public fund utilization. From a constitutional law perspective, this contradicts the concept of the welfare state, which mandates the state to ensure the welfare of the people¹² through fair and equitable management of strategic resources.

In addition, corruption cases at PT Pertamina, particularly those related to the management of crude oil and refinery products, have had a widespread impact on energy policy and consumer protection. This corruption has not only caused losses to state finances, but has also affected fuel subsidy policies, information transparency in the

¹⁰ Kejaksaan Agung Republik Indonesia. *7 Tersangka Ditetapkan Dan Ditahan Dalam Perkara Tata Kelola Minyak Mentah Di Pertamina*. 2025, <https://www.kejaksaan.go.id/conference/news/3996/read>.

¹¹ Admojo et al. *Op cit*

¹² Butarbutar, Aloysius Sahala, and Elisabeth Nurhaini Butarbutar. "Peran Hukum Dalam Mewujudkan Negara Kesejahteraan Republik Indonesia Yang Berkeadilan Sosial." *Jurnal Hukum Justice*, Feb. 2025, pp. 123–33. *ejournal.ust.ac.id*.

energy sector, and the welfare of the community as consumers to access affordable and sustainable energy will be increasingly difficult. Irregularities in the management of crude oil through fuel blending practices and the manipulation of refinery production reports to encourage increased imports have demonstrated a lack of compliance with the objectives of the national energy policy as stipulated in Article 11 paragraph (3) letter d of Law Number 22 of 2001 concerning Oil and Gas, which prioritizes energy security and efficient utilization of domestic resources¹³ in national energy management.

This case illustrates the weak implementation of corporate governance principles in preventing and stopping systemic fraud. To strengthen corruption prevention, state-owned enterprises have a responsibility to apply the principles of Good Corporate Governance (GCG) in accordance with Minister of State-Owned Enterprises Regulation No. PER-01/MBU/2011. This responsibility requires improving the quality of transparency and accountability at every stage of the procurement of goods and services, with implementation referring to the provisions of Presidential Regulation No. 12 of 2021. The application of these rules is expected to ensure that the procurement process is open, traceable, and protected from potential abuse of authority.

2. Application of the Principle of Non-Domination in Corruption Prevention in Energy Sector Management

Republicanism is understood as a political philosophy rooted in sympathy, moral energy, and ideas about freedom and republican forms of government. This doctrine places the public interest above private interests. The term “public” in the framework of republicanism refers not only to formal institutions or structures, but also to citizens who live in solidarity within a political community.¹⁴ Therefore, the concept of republicanism becomes a normative orientation that encourages citizens to reaffirm the public interest as a form of solidarity for active, rational, and equal citizenship in a republic,¹⁵ including

¹³ Darmansyah, Erick, and Ariawan Gunadi. “Dinamika Hukum dan Politik dalam Dugaan Kasus Korupsi yang Melibatkan Pertamina: Analisis Yuridis dan Implikasinya terhadap Kebijakan Energi Nasional.” *Jurnal Hukum Lex Generalis*, vol. 5, no. 11, Nov. 2024. [ojs.rewangrencang.com, https://doi.org/10.56370/jhlg.v5i11.1065](https://doi.org/10.56370/jhlg.v5i11.1065).

¹⁴ Robert. *Op cit*

¹⁵ Abjan, Gustamin, et al. “Republicanism-Based Budgeting: Politik Kewargaan Dan Resistensi Terhadap Neoliberalisme Dan Oligarki.” *Jurnal Reviu Akuntansi Dan Keuangan*, vol. 14, no. 3, Oct. 2024, pp. 710–35. ejournal.umm.ac.id, <https://doi.org/10.22219/jrak.v14i3.36011>.

in the management of the energy sector, an area that is often influenced by neoliberal logic, oligarchic domination, the interests of certain elites, and the tendency to concentrate management authority in certain entities.

The principle of republicanism rejects all forms of domination that limit people's access to their rights,¹⁶ not to enrich certain individuals or groups. Article 33 of the 1945 Constitution emphasizes the importance of the state's role in ensuring that energy management remains under public control and is not controlled by capitalist interests. In the perspective of republicanism, the state must prevent any form of domination that harms the people in obtaining benefits from energy resources. This is in line with The Constitutional Court, through Decision No. 85/PUU-XI/2013, that energy management must remain in the control of the state to protect the interests of the people. This decision invalidates provisions in the Oil and Gas Law that provide opportunities for foreign domination in national energy management.

This is in line with the principle of non-domination in the concept of republicanism, which refers to a condition in which individuals or communities are not under the control of another party that can act arbitrarily (arbitrary power). In energy management, this concept emphasizes that the state, corporations, and other actors should not control energy resources in a way that negates public control, transparency, and accountability.¹⁷ Communities must be given space to participate in energy policymaking to ensure that policies do not only benefit certain groups. The government needs to establish an effective complaint mechanism so that reports from the public can be followed immediately. With the active involvement of the community, energy governance can be more transparent and accountable. Institutional reform is a fundamental step in building more transparent and accountable energy governance.

Robertus Robet explained that republicanism is oriented towards popular sovereignty and emphasizes the importance of transparency and accountability in the management of public resources.¹⁸ The principle of republicanism demands public control over energy policy so that it is not controlled by oligarchs who only pursue

¹⁶ Bellamy, Richard. "Republicanism: Non-Domination and the Free State." *Routledge International Handbook of Contemporary Social and Political Theory*, 2nd ed., Routledge, 2021.

¹⁷ Söylemez, Duygu Ilkhan, and Adnan Söylemez. "Governance Frameworks for Renewable Energy Development: Energy Transition and Public Governance." *Revista de Gestão Social e Ambiental* [São Paulo, Brazil], vol. 18, no. 11, 2024, pp. 1–19. *ProQuest*, <https://doi.org/10.24857/rgsa.v18n11-110>.

¹⁸ Robert. *Op cit*

personal gain.¹⁹ Any policy relating to the energy sector must be subject to the principles of accountability and transparency. If energy governance is not carried out with these principles, there will be distortions that harm the interests of the people. Legal reform in energy management is a crucial step to improve a system that has experienced various irregularities.

In the republicanism theory proposed by Philip Pettit, freedom in a state does not only mean the absence of intervention, but also freedom from structural domination.²⁰ If energy policy is controlled by certain groups without a strong monitoring mechanism, then people lose their freedom to access affordable and sustainable energy. Transparency and accountability in energy governance are fundamental aspects to prevent such domination.²¹ This is relevant to the principles of Good Corporate Governance (GCG) are an important instrument in ensuring energy governance that is cleaner from corrupt practices and the domination of certain groups.

The principle of transparency demands openness in every decision-making process in the energy sector, so that the public can clearly know how energy resources are managed.²² Accountability requires every party involved in energy management to be responsible for the policies they adopt and their impact on society. The principle of responsibility ensures that energy companies, both state-owned and private, must carry out their operations in compliance with applicable regulations and be responsible for the public interest. In addition, the principle of independence in GCG emphasizes that energy governance must be free from the intervention of parties with conflicts of interest. The principle of fairness ensures that distribution and access to energy is done equitably, so that there is no monopoly or exploitation of the public.²³

The principles of Good Corporate Governance (GCG) must be integrated with legal norms governing natural resource management so that energy governance remains

¹⁹ Ismayani, Ismayani, et al. "Analisis Pengaruh Oligarki Terhadap Demokrasi Dan Hak Asasi Manusia Di Indonesia." *All Fields of Science Journal Liaison Academia and Society*, vol. 2, no. 2, 2022, pp. 385–95. *j-las.lemkomindo.org*, <https://doi.org/10.58939/afosj-las.v2i2.355>.

²⁰ Robert. *Op cit*

²¹ Mason, Michael. "Transparency, Accountability and Empowerment in Sustainability Governance: A Conceptual Review." *Journal of Environmental Policy & Planning*, Jan. 2020, world. *www.tandfonline.com*, <https://www.tandfonline.com/doi/abs/10.1080/1523908X.2019.1661231>.

²² Daffa, Adika Reyhan, and Eliada Herwiyanti. "Tinjauan Literatur Prinsip Good Corporate Governance (GCG) Pada Badan Usaha Milik Negara Indonesia." *Economics and Digital Business Review*, vol. 4, no. 2, Oct. 2023, pp. 217–30. *ojs.stieamkop.ac.id*, <https://doi.org/10.37531/ecotal.v4i2.803>.

²³ Daffa and Herwiyanti. *Op cit*

in line with national interests. Therefore, every policy related to the energy sector must consider aspects of social justice and avoid the practice of domination of certain groups that are contrary to the principle of community economic sovereignty.²⁴ The existence of regulations oriented towards the public interest is an important element in preventing privatization practices that can harm the state and the wider community. With policies that prioritize the balance between national interests and business aspects, energy management can remain under state control in accordance with the constitutional mandate.

Realizing energy governance that is free from corruption requires a republicanism-based approach, which rejects domination and ensures that the management of public resources is in favor of the interests of the people. For this reason, several policies can be implemented to prevent abuse of authority in national energy management. The policies that can be implemented are as follows:

- a. Strengthening Regulation and the Rule of Law. Corruption in energy governance is inextricably linked to legal loopholes that can be exploited by certain parties. Strengthening regulations is therefore a crucial step to ensure that all energy-related policies remain within constitutional boundaries. Article 33 of the 1945 Constitution must serve as the primary reference in safeguarding energy management from being misused for the benefit of a select few. Any deviations in energy governance must be addressed decisively through effective legal instruments. Moreover, sanctions against corruption in the energy sector should be reinforced to create a deterrent effect and prevent similar misconduct in the future.
- b. Transparency and Accountability in Energy Governance. All decisions related to energy management must be accessible and subject to public oversight. Law No. 14 of 2008 on Public Information Disclosure grants the public the right to obtain information regarding the governance of natural resources, including energy. Strategic energy policies, such as cooperation agreements and Pertamina's financial reports, must be formulated transparently and be subject to independent audits. This

²⁴ Marlina, Heni, and Serlika Aprita. "Penegakan Hukum Terhadap Kasus Korupsi Pt. Timah Sebagai Bentuk Potret Buruk Tata Kelola Sektor Ekstraktif." *The Juris*, vol. 8, no. 1, June 2024, pp. 87–94. ejournal.stih-awanglong.ac.id, <https://doi.org/10.56301/juris.v8i1.1182>.

level of transparency will minimize opportunities for corrupt practices while ensuring that every policy is genuinely implemented in the public interest.

- c. **Structural Reform of State-Owned Enterprises (SOEs) in the Energy Sector.** Pertamina, as a strategic state-owned enterprise (SOE), plays a crucial role in maintaining national energy security. However, political influence often results in corporate policies that serve particular interests rather than the public good. Structural reform in the recruitment system for energy-sector SOE executives must be implemented to ensure that strategic positions are occupied solely by individuals with proven competence and integrity. Furthermore, internal oversight mechanisms must be strengthened through supervisory boards and commissioners with high independence and no political affiliations. These measures will help prevent abuses of power in energy governance.
- d. **Public Participation and Strengthening Community Oversight.** The public has the right to participate in overseeing energy governance. This right can be realized through reporting and complaint mechanisms for suspected violations in the energy sector. The government must provide accessible reporting channels and ensure that every public complaint is addressed seriously. Additionally, civil society organizations should be given the space to monitor energy policies to prevent them from disproportionately benefiting certain groups. The broader the public involvement in oversight, the narrower the opportunities for corrupt practices to thrive in energy governance.
- e. **Optimizing the Role of Anti-Corruption Institutions and Law Enforcement Agencies.** Eradicating corruption in the energy sector requires strong coordination among law enforcement institutions. The Corruption Eradication Commission (KPK), the Attorney General's Office, and the Supreme Audit Agency (BPK) must collaborate effectively in monitoring and investigating alleged corruption cases within the energy sector. Additionally, asset recovery mechanisms must be implemented to ensure that stolen state assets are reclaimed and redirected for public benefit. To uphold integrity, law enforcement agencies must maintain their independence and remain resistant to political pressure. Firm and consistent law enforcement is essential to systematically eliminating corruption in energy governance.

- f. Implementation of Republicanism Principles in Energy Governance. The principle of republicanism emphasizes that energy resources must be managed without domination by specific groups. Energy policies should be formulated based on the principles of justice and non-domination to prevent their management from disproportionately benefiting a small elite. Policymaking in the energy sector must also follow a participatory mechanism, involving various stakeholders, including the public, academics, and independent organizations. Furthermore, the state has a responsibility to ensure that energy remains under public control and does not fall into private hands at the expense of national interests. By consistently applying republicanism principles, energy governance can become more transparent, accountable, and oriented toward public welfare.

Realizing energy governance free from corruption requires a strong commitment from various stakeholders, including the government, society, and law enforcement institutions. Policy reforms encompassing regulation, transparency, SOE reform, public participation, and law enforcement must be comprehensively implemented to ensure that energy management genuinely serves the public interest. With the consistent application of republicanism principles, national energy resources can be managed fairly, sovereignly, and sustainably. The state must ensure that every energy policy does not create opportunities for abuse of power or domination by certain interests that contradict the principles of social justice. Strengthening the rule of law and implementing strict oversight in the energy sector are fundamental steps to prevent corruption and ensure that energy resources are managed for the greatest benefit of the people.

III. CONCLUSION

Corruption in Indonesia's energy governance reflects an entrenched structure of arbitrary power, and the Pertamina case demonstrates how opaque bureaucratic-corporate relations undermine economic sovereignty and public accountability; accordingly, the principle of non-domination must serve as an institutional design mandate rather than a normative aspiration. The analysis affirms that procedural openness, independence of supervisory and state-owned enterprise management from political interference, and accessible public-objection mechanisms constitute essential safeguards to prevent domination-offering a more structurally responsive alternative to technocratic governance

models. While the research is limited by its single-case focus and the political resistance inherent in challenging existing power hierarchies, it provides a significant theoretical contribution by integrating republicanism into energy and anti-corruption law, thereby reframing governance reform around power distribution and democratic legitimacy. Future applications of these findings require institutional reforms that systematically constrain domination and enable continuous public oversight, while further comparative and empirical research is needed to validate and broaden the applicability of the non-domination framework across energy subsectors and other areas of public governance.

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