Jurnal Daulat Hukum
Volume 8 No.2, June 2025
ISSN: 2614-560X
SINTA 3 Decree No. 0547/ES/DT.05.00/2024
Dated May 15, 2024

When Favoritism Becomes a Crime: A Comparative Analysis of Nepotism in Anti-Corruption Enforcement

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Abstract. *Nepotism, as a form of favoritism, continues to pose a significant threat to public sector integrity, particularly in Indonesia where familial ties often influence appointments and resource allocation. This study aims to critically analyze the legal treatment of nepotism in Indonesia under Act No. 28 of 1999 and compare it with Australia's approach through the common law and statutory offence of Misconduct in Public Office (MIPO). Using a normative legal research method, the study examines statutory texts, judicial precedents, and institutional practices in both countries. It highlights significant legal and institutional shortcomings in Indonesia's framework, including vague definitions of key terms, lack of enforcement mechanisms, and the exclusion of nepotism cases from the jurisdiction of the Corruption Eradication Commission (KPK). The novelty of this research lies in its comparative analysis, extending beyond domestic critique by systematically contrasting Indonesia's narrow and fragmented legal approach with Australia's broader, enforceable, and institutionally supported anti-nepotism framework. The findings reveal that while Indonesia limits nepotism to material harm in public appointments and procurement, Australia criminalizes a wider range of misconduct through clearly defined laws enforced by independent anti-corruption commissions. This contrast underscores the need for Indonesia to reform its legal definitions, expand enforcement authority, and integrate anti-nepotism measures with broader governance reforms. The study concludes that strengthening Indonesia's legal and institutional capacity, informed by Australia's model, is essential to addressing nepotism as both a legal and governance challenge.*

Keywords: *Corruption; Criminal; Favoritism; Misconduct; Nepotism.*

1. Introduction

Favoritism refers to the act of offering jobs, contracts and resources to members of one's own social group in preference to others who are outside the group (Bramoullé & Goyal, 2016). A

common form of favoritism in Indonesia is nepotism, which is the practice of employing or appointing a person to a government position based solely on their relations with politicians, bureaucrats and other public officials, without taking into account factors such as skills, abilities, achievements and educational attainment. Some scholars argued that public officials gain psychological and social gains such as "being respected" and "being appreciated" (Özsemerci, 2003). Nepotism are considered to be classic forms of political corruption (Barrington et al., 2022), where family members are unfairly favored, taking away opportunities or resources that others deserve (Mowla, 2025). The most notorious instances of political corruption in Indonesia occurred during the New Order government under President Soeharto. His administration was marked by inefficiency and ineffectiveness due to the absence of a proper system of checks and balances between the executive, legislative, and judicial branches. To restore public trust, the new Reformed government under President Habibie promised to eliminate corruption, collusion, and nepotism (Mukartono, 2022). Initially, he enacted the Corruption Eradication Act No. 3 of 1971, followed by the Government Officials Clean and Free from Corruption, Collusion, and Nepotism Act No. 28 of 1999, which criminalized collusion, cronyism, and nepotism among government officials (Fahrozi et al., 2020).

In spite of legal reforms targeting nepotism and corruption, corruption in Indonesia has persisted (Kristiana & Hutahayan, 2024) and Indonesia still ranks among countries with high levels of corruption. Indonesia ranked 99th out of 180 countries in the Corruption Perceptions Index 2024 with a score of 37 out of 100, with 100 being a country that is absent from corruption (Transparency International, 2024). The same result can also be seen in the Worldwide Governance Indicators 2023 where Indonesia ranked 36.2 percentile in the Control of Corruption category with rank 100 percentile being a country that is effective in controlling corruption (World Bank, 2024). Compared to Indonesia, Australia has a much lower corruption rate (McKeone, 2021). In the Corruption Perceptions Index 2024, Australia ranked 10th out of 180 countries with a score of 77 out of 100. In fact, since 1995 Australia has been consistently ranked in the top 15 least corrupt countries in the world (Transparency International, 2024). The same can be seen in the Worldwide Governance Indicators 2023 where Australia ranked 95.75 percentile in the Control of Corruption category, placing Australia in the top 10 most effective countries in controlling corruption (World Bank, 2024).Given the stark differences in corruption rates between Indonesia and Australia, the author is keen to conduct a thorough study comparing the nepotism offences found in Act No. 28 of 1999 in Indonesia and compare it with anti-nepotism laws found in various states in Australia.

This research is important because it highlights the substantive legal gaps in Indonesia's framework for addressing nepotism, as identified by Dr. Ali Mukartono. He points out several core weaknesses in Act No. 28 of 1999, including vague definitions of key elements such as "the interests of the community, nation, and state," a lack of clarity surrounding the "unlawful element," and ambiguity over what types of benefits, material or immaterial, constitute nepotism. These uncertainties have led to a narrow interpretation and enforcement of the law, where only cases involving material gain in procurement processes are typically prosecuted. Acts

of nepotism involving immaterial benefits, such as securing public office through familial ties, are often left unaddressed. Compounding this issue is the exclusion of nepotism from the jurisdiction of both the Corruption Eradication Commission and the Corruption Court, leaving a legal vacuum (Mukartono, 2022). This makes it crucial to examine how another legal system, such as Australia's, deals with similar issues. Unlike Indonesia, Australia has taken steps to define and prosecute nepotism in the form of Misconduct in Public Office (R v Bembridge (1783) 3 Doug KB 327). State-level independent corruption commission, such as Queensland's Crime and Corruption Commission (CCC), also classify nepotism as a form of 'corrupt conduct' (Crime and Corruption Commission Queensland, 2021), which grants them the authority to investigate and prosecute such cases (Crime and Corruption Act 2001 (QLD), s 33(2)).

This research offers a critical comparative perspective on the legal treatment of nepotism within public institutions, focusing on Indonesia and Australia. It provides an in-depth analysis of the structural and institutional challenges surrounding the definition, classification, and enforcement of anti-nepotism laws, particularly in relation to broader anti-corruption frameworks. By examining how different legal traditions, institutional arrangements, and enforcement mechanisms shape the handling of misconduct in public office, the study highlights underlying systemic differences in legal philosophy, administrative coordination, and institutional independence. The comparison also sheds light on how varying legal scopes and judicial tools influence the practical ability of each country to prevent and address unethical conduct by public officials. Through this analysis, the research contributes to a more nuanced understanding of how nepotism can be addressed not only as a legal issue but also as a governance challenge. In doing so, it lays a foundation for legal scholars, policymakers, and reform advocates to rethink current approaches to public integrity and consider how cross-jurisdictional insights can inform the development of more coherent and enforceable anti-nepotism policies.

Several previous studies have explored the complex issues surrounding nepotism and its role in corruption within Indonesia. First, Gusman (2021) revealed that nepotism remains deeply embedded in Indonesian society, particularly through the widespread practice of buying and selling government positions, which not only violates legal provisions but also undermines public trust and institutional integrity. This has been identified as a critical weakness in law enforcement efforts against nepotism (Gusman, 2021). Second, Hani (2022) critically examined the jurisdiction of the Corruption Court over nepotism cases, highlighting that the current interpretation of Article 6 of the Corruption Court Act, which asserts the court's authority to try nepotism offences, is legally ambiguous and requires clarification to avoid jurisdictional confusion (Hani, 2022). Third, Riyadi (2020) emphasized the significant role of abuse of power in sustaining corruption, collusion, and nepotism, drawing attention to ongoing legal disputes between the Corruption Court and the State Administrative Court regarding their overlapping authority to oversee misconduct by public officials (Riyadi, 2020). Unlike these previous studies that focus primarily on Indonesia, this research extends the discussion by not only analyzing nepotism as a criminal offence under Indonesia's Act No. 28 of 1999 but also by comparing how various Australian

jurisdictions address nepotism in their anti-corruption frameworks, providing a broader, comparative perspective on legal enforcement.

This research aims to critically examine the legal framework addressing nepotism in Indonesia, with a focus on Act No. 28 of 1999 concerning the Clean and Free State Administration from Corruption, Collusion, and Nepotism. It explores how nepotism is defined, regulated, and enforced within this legal framework, and identifies the substantive and procedural limitations that hinder its effective implementation. The study also investigates the institutional context, including the limited jurisdiction of key enforcement bodies such as the Corruption Eradication Commission (KPK), and the absence of coordinated oversight mechanisms. In parallel, the research analyzes how nepotism is treated within Australia's legal system, particularly under the offence of Misconduct in Public Office (MIPO), and examines the role of independent anti-corruption agencies in enforcing public sector integrity. By comparing the legal definitions, enforcement structures, and institutional independence in both countries, this study seeks to highlight gaps in Indonesia's current approach and consider how alternative legal models, such as those in Australia, can inform efforts to enhance accountability, close enforcement loopholes, and promote good governance in the Indonesian public sector.

2. Research Methods

This research employed a normative legal research method to analyze how nepotism is regulated and enforced in Indonesia and Australia. The study examined various statutory provisions, including Indonesia's Government Officials Clean and Free from Corruption, Collusion, and Nepotism Act No. 28 of 1999 and Australia's anti-corruption and criminal statutes, such as the Crimes Act 1958 (Vic), Crime and Corruption Act 2001 (QLD), Criminal Code Act 1899 (QLD), Criminal Code Act 1983 (NT), Criminal Code Amendment (Corruption Penalties) Act 2002 (WA), and the Criminal Law Consolidation Act 1935 (SA). A statute and case approach was used to assess the legal scope and effectiveness of anti-nepotism measures. Primary legal materials, such as laws and regulations, were analyzed alongside secondary sources including books, journals, and reports. Tertiary materials like legal dictionaries were consulted to clarify legal terminology. The research focused on identifying the limitations in Indonesia's current legal framework, particularly the lack of clarity in definitions and enforcement mechanisms, and compared these with Australia's broader, more enforceable models. Descriptive analysis was applied to draw conclusions about how institutional structures and legal tools influence the handling of nepotism in public office.

3. Results and Discussion

3.1. The Criminal Offence of Nepotism in Indonesian Law

Act No. 28 of 1999 defines nepotism as "any act by a state administrator that improperly favors his or her family and/or cronies in the appointment of a public office, procurement of goods and

services, or other state benefits, thereby harming the public interest and the rights of others." This definition confines nepotism to a limited range of state functions, primarily appointments and procurement, and is contingent on a demonstrable harm to the public interest. As a result, other forms of favoritism, such as influence in civil service entrance exams, preferential treatment in promotions, or informal gatekeeping in local government institutions, fall outside the law's purview unless clear material harm can be proven.

Moreover, Act No. 28 of 999 does not serve as a criminal statute in and of itself. Instead, it operates as a framework or umbrella for ethical governance and good conduct. It mandates that public officials, referred to as state administrators, uphold principles of accountability and fairness, and outlines obligations such as the declaration of wealth (*Laporan Harta Kekayaan Penyelenggara Negara*, or LHKPN) and the prohibition of conflicts of interest. However, the law does not establish a specific procedural or enforcement mechanism to investigate or prosecute violations of nepotism. Sanctions for violations are typically administrative or political (e.g., dismissal or public reprimand), and often depend on the discretion of internal supervisory bodies rather than independent or judicial authorities.

Crucially, the law does not grant the Corruption Eradication Commission, or KPK, the most powerful and independent anti-corruption agency in Indonesia (Umam et al., 2018), direct authority to handle nepotism cases. The "compotent authority" that have the authority to investigate nepotism cases are the Attorney General's Office, the Supreme Audit Agency, and the National Police. (Explanation Section of Government Officials Clean and Free from Corruption, Collusion, and Nepotism Act No. 28 of 1999). The KPK's mandate is primarily derived from Act No. 30 of 2002 (, which focuses on criminal corruption rather than ethical violations like nepotism per se (Yuliansyah et al., 2025). As such, even if nepotism is detected in a bureaucratic process, the KPK cannot intervene unless there is evidence of financial corruption. This legal gap means that many forms of nepotism, especially those tied to political dynasties or civil service appointments, are left to internal administrative review or regional supervisory institutions, which are often under political influence and lack independence.

Article 3 of the law lays out the principles of state administration: legal certainty, orderly administration, public interest, openness, proportionality, professionalism, and accountability. These principles are intended to guide the behavior of public officials, but they remain normative ideals rather than enforceable obligations (Zamroni, 2019). The law also introduced the *Komisi Pemeriksa Kekayaan Penyelenggara Negara* or KPKPN, a now-defunct institution that was intended to oversee asset declarations. KPKPN was later absorbed into the KPK, but without an expanded mandate to investigate ethical misconduct like nepotism independently (Armando, 2024).

Another key limitation is that Act No. 28 of 1999 is not integrated with Indonesia's administrative law or civil service law frameworks, such as the State Civil Apparatus Act No. 5 of 2014. While the Act No. 5 of 2014 governs recruitment, promotion, and disciplinary procedures within the

civil service, it does not explicitly coordinate with the anti-nepotism provisions of Act No. 28 of 1999 (Ali, 2019). This lack of legal integration has led to regulatory fragmentation, allowing different government institutions to interpret and enforce ethical standards inconsistently.

3.2. The Criminal Offence of Nepotism in Australian Law

The criminal law frameworks of Australian states and territories are fundamentally grounded in the English common law tradition, a body of law shaped over centuries through judicial decisions and the establishment of binding precedents. This reliance on precedent, where principles derived from prior cases guide future rulings, has allowed common law to remain adaptive and responsive to societal changes. However, because it continues to evolve through judicial interpretation, its development can vary across jurisdictions. As a result, an offence recognised under common law in New South Wales may differ in interpretation or application from a similar offence in Victoria, even if both are rooted in the same English legal principle. Despite these jurisdictional differences, Australian courts regularly engage with case law from other states and territories to support legal coherence and uniformity in the broader national context.

Some Australian jurisdictions have opted to fully replace criminal common law by adopting a 'criminal code', a comprehensive statute that codifies the common law as it stood when the code was first introduced. Currently, New South Wales, South Australia, and Victoria are the only states that continue to follow criminal common law. However, even in these states, criminal statutes exist, and some have eliminated specific common law offences. Additionally, the Commonwealth, using its incidental powers under the Constitution, established its own criminal code in 1995, further influencing the criminal law framework across Australia (Tarrant, 2013).

The offence known as Misconduct in Public Office (MIPO) traces its roots back to mid-18th century England. With the adoption of English common law, this offence became embedded in the legal systems of all Australian states and territories. Over time, it has been identified by different terms such as misfeasance, official misconduct, breach of public trust, abuse of office, and similar expressions. While the terminology may vary, the offence broadly covers improper conduct by public officials, including acts of nepotism, preferential treatment, deliberate failure to perform official duties (R v Dytham [1979] QB 722), and exploiting insider knowledge for personal benefit. The exact nature of conduct that constitutes the offence is shaped by the official's role and their specific responsibilities within the public sector (Crime and Misconduct Commission, 2008).

The offence of Misconduct in Public Office (MIPO) continues to be recognized under common law in both New South Wales and Victoria. However, its application in these states has gradually diverged from the current interpretation in England due to the development of local judicial precedents. The MIPO offence was removed from South Australian law in 1992, following the introduction of new corruption-related provisions in the Criminal Law Consolidation Act 1935 (SA), despite South Australia being a common law jurisdiction like others that retained the

offence (Criminal Law Consolidation Act 1935 (SA)). Today, the common law understanding of MIPO remains expansive, covering misconduct such as the use of public roles for personal or political gain, including acts like favoritism and nepotism.

In common law, the offence is classified as indictable with the penalty being determined on a case-by-case basis rather than being fixed. When deciding the appropriate sentence, the court takes into account relevant statutory offences, with the severity of the misconduct influencing the extent of the punishment. with the gravity of the misconduct influencing the severity of the punishment. However, in Victoria, the maximum penalty for this offence is stipulated by statute, which allows for a sentence of up to ten years in prison (Crimes Act 1958 (Vic) s 320). In Australian jurisdictions with criminal codes, the MIPO offence has been codified in different ways. Notably, the versions in the Northern Territory (Criminal Code Act 1983 (NT)) and Queensland are similar, representing some of the earliest codified forms of the offence, both of which include the requirement of an 'abuse of authority' (Criminal Code Act 1899 (QLD)).

Largely informed by the 1995 recommendations of the Model Criminal Code Officers Committee (MCCOC), established in the 1990s to develop a unified criminal code for Australia, the current statutory versions of the offence reflect this national reform effort (Loughnan, 2017). The version of Misconduct in Public Office (MIPO) recommended by the MCCOC bore strong similarities to the earlier formulation adopted in Western Australia in 1988. However, a key difference lies in the legal threshold: the Western Australian provision focuses on conduct deemed 'corrupt', whereas the MCCOC model requires that all aspects of the offence involve 'dishonesty'.

The versions of the offence adopted by both the Commonwealth and the ACT largely follow the guidelines set out by the MCCOC, incorporating 'dishonesty' along with other additional provisions. On the other hand, South Australia's version, though shaped by the MCCOC, replaces the element of 'dishonesty' with a requirement for 'improper' conduct. The most recent statutory offence in Queensland, marking the second codified abuse of office offence, also aligns with the MCCOC framework and requires 'dishonesty.' The former Crime and Misconduct Commission (CMC) recommended the introduction of this offence after it uncovered evidence of criminal activity that would have been difficult to prosecute under the previous laws (Lusty, 2012). The table below compares the various statutory MIPO offences across Australian jurisdictions.

Table 1. Comparative table of statutory MIPO offences (Integrity Commission, 2014).

	Applies to	Setting the condition that the conduct must take place as part of the responsibilities of a public office position.	Is it necessary for them to act with the aim of securing a benefit or inflicting a detriment?	Is it necessary for them to act with the aim of securing a benefit or inflicting a detriment?
ACT	Public official.	Carries out any duty or exerts any authority associated with their role as a public official; or neglects to perform any duty assigned to the official in their capacity as a public official; or participates	Yes. The official must intend to: fraudulently secure an advantage for the official or another person; or fraudulently	Dishonest.

		in any actions while performing the official's responsibilities as a public official; or utilizes any information acquired by the official in their capacity as a public official.	inflict harm or disadvantage upon another person.	
Cth	Commonwealth public official.	Exerts any influence the official holds in their role as a Commonwealth public official; or participates in any actions while performing the official's duties as a Commonwealth public official; or utilizes any information that the official has acquired in their role as a Commonwealth public official.	Yes. The official must intend to: illegitimately secure a benefit for themselves or someone else; or illegitimately inflict harm or loss on another person.	Dishonest.
NT	Person employed in the public service.	In abuse of the authority of his office.	No, it must be an 'unfair act that harms another's rights'. The aggravated form of the offense arises when the official acted 'for personal benefit'.	Unjust and harmful to the rights of another.
Qld	Public officer.	Handles information obtained due to their position; or carries out or neglects a duty of their office; or performs an act or makes an omission that abuses the authority of their office.	Yes. The official must intend to: illegitimately acquire a benefit for the officer or someone else; or illegitimately create a disadvantage or harm to another person.	Dishonest.
SA	Public officer.	Uses the power or influence granted to the public officer due to their position; or declines or neglects to carry out an official duty or responsibility; or uses information obtained by the public officer through their position.	Yes. The official must intend to: obtaining a benefit for themselves or someone else; or inflicting harm or loss on another person.	Improper.
WA	Public officer.	Takes action based on any knowledge or information acquired due to their office or employment; or takes action in any matter related to the performance of his office or employment where he has, directly or indirectly, any financial interest; or engages in corrupt conduct while performing the duties of his office or employment.	Yes. The official must intend to: obtain a benefit, either financial or otherwise, for any individual; or inflict a detriment, whether financial or otherwise, on any individual.	Without legal authority or a valid excuse. For one of the three offenses, the conduct must be deemed 'corrupt'.

Several Australian states have set up integrity bodies to oversee public sector misconduct. In New South Wales and Western Australia, wrongdoing uncovered by these bodies is prosecuted using MIPO offences. According to the ICAC's 2012–13 annual report in New South Wales, there was enough evidence to charge four individuals with a total of seven MIPO offenses (Independent Commission Against Corruption New South Wales, 2013). The Commissioner has recently proposed the formal codification of MIPO in New South Wales to enhance the effectiveness of prosecuting misconduct uncovered by the ICAC (Latham, 2014). In the 2011–12 period, the Crime and Corruption Commission (CCC) in Western Australia reported that of the 546 charges filed against four public officers, 24 were related to the MIPO offense under Criminal Code WA s 83(b), and 135 charges involved the MIPO offense under s 83(c). During this period,

420 convictions were recorded against three public officers, including 20 charges under s 83(b) and one under ss 7, 83(c) (Corruption and Crime Commission, 2012).

The 2002 amendments to the MIPO offence in Western Australia demonstrate the significance that other jurisdictions place on prosecuting serious misconduct and corruption. The maximum penalty was increased from three to seven years' imprisonment, resulting in the offence being reclassified from a misdemeanour to a crime. As a consequence, telecommunications interception warrants could be obtained by the newly established Corruption and Crime Commission (CCC) to support investigations into MIPO and related corruption offences (Criminal Code Amendment (Corruption Penalties) Act 2002 (WA)). It remains uncertain whether the MIPO offence in South Australia will be effectively applied in the prosecution of misconduct, as the Independent Commission Against Corruption (ICAC) in South Australia, which receives an amendment in 2021, is still relatively new (Woolford, 2023). In Queensland, the extent to which the previous and the more recent MIPO offences have been employed remains unclear. In Victoria, jurisdiction over MIPO has been excluded from the remit of the Independent Broad-based Anti-corruption Commission which was formed in 2010 (Umam et al., 2018).

In certain jurisdictions, useful case studies have been published that illustrate how the MIPO offence is applied, although not all of these cases stem from investigations by integrity agencies. For example, an investigation by the Crime and Corruption Commission led to the January 2014 conviction and imprisonment of a former facilities manager from the Department of Health, who abused his role to unlawfully obtain nearly $500,000 over a span of six years. Wathumullage 'Tikka' Wickramasinghe awarded contracts for hospital projects to a company owned by his associate, which then subcontracted the work back to Wickramasinghe. The payments were concealed under invoices from private business names to hide the fact that they were going to a Health Department employee. Wickramasinghe lacked approval from the Department of Health for secondary employment and took steps to hide the kickbacks from his supervisors. In 2011, he was charged and, in November 2013, he pleaded guilty to 10 counts of corruption under Criminal Code WA s 83, leading to a four-year prison sentence. His associate, Adeshir Kalani, also admitted guilt to nine counts of corruption and, as a non-public officer, was sentenced to two years in prison (Kalani v The State of Western Australia [2013] WASCA 132).

In the 2004 case of R v Dunn in South Australia, the appeal against a six-year prison sentence, with a three-year non-parole period (due to mitigating factors), was unsuccessful. Dunn was convicted of 18 charges of abusing public office under section 251 of the Criminal Act SA and 61 charges related to improperly accepting a benefit under section 249(2) of the same legislation. Dunn, who had worked for many years at the South Australian Housing Trust and had risen to a senior management position, was responsible for approving building work. In 1994, he arranged for a former employee, referred to as 'P', to be given assignments by the Housing Trust (R v Dunn [2004] SASC 316).

In August 2008, the ICAC in New South Wales found that a former long-time employee of RailCorp, the state-run organization responsible for rail infrastructure, had participated in corrupt activities by directing over $4 million worth of track repair contracts to a private company in which he had a personal interest. Michael Blackstock, who was serving as project manager during the investigation, funneled RailCorp projects to a company he had established for this specific purpose. Following the ICAC investigation, Blackstock was charged by the public prosecutor and pleaded guilty to Misconduct in Public Office (MIPO) and other statutory criminal offenses. On February 24, 2012, he was sentenced to 4.5 years in prison, with a non-parole period of 3.5 years. The MIPO charge contributed to a three-year non-parole term, with an additional one-year sentence (Blackstock v Regina [2013] NSWCCA 172, [3]).

From table 1, it could be seen that scope of Indonesia's Act No. 28 of 1999 is relatively narrow compared to Australia's Misconduct in Public Office law. Indonesia's law specifically targets nepotism in state appointments and the allocation of state resources, focusing on preventing public officials from favoring family members or close associates in public offices and government contracts. However, it does not extend to nepotism in government job employment more broadly or address the full range of misconduct that can occur in public office. In contrast, Australia's law is broader and more inclusive, covering not only nepotism but also a wide range of misconduct, including corruption, conflicts of interest, and abuse of power. The law criminalizes any behavior that undermines the integrity of public office, including improper favoritism toward family members or associates, thereby offering a more comprehensive approach to unethical conduct.

Enforcement mechanisms also differ significantly between the two legal frameworks. In Australia, Misconduct in Public Office is actively monitored by independent agencies, including the Australian Federal Police (AFP) and various state-level anti-corruption commissions, which have the authority to investigate and prosecute cases. These agencies operate with a high degree of independence from political pressure, ensuring that public officers are held accountable for misconduct. The judicial system in Australia is also equipped to handle cases of misconduct through criminal courts, making enforcement effective and systematic. On the other hand, Indonesia's enforcement of Act No. 28 of 1999 has been more inconsistent. While the law includes provisions for penalties and sanctions, the Indonesian Corruption Eradication Commission (KPK) lacks the authority to directly investigate and prosecute nepotism cases. This limitation has weakened enforcement efforts, as local political elites often find ways to bypass the law, especially in regions where patronage networks are most entrenched.

In terms of institutional independence, Australia's legal framework is supported by robust, independent agencies that are empowered to conduct investigations without political interference. In contrast, Indonesia's decentralization and political interference in local governments often undermine the effectiveness of anti-nepotism laws, as local leaders resist reforms and continue to operate patronage networks. This lack of institutional autonomy in Indonesia hampers efforts to address nepotism effectively at the local level.

Ultimately, while both Indonesia and Australia aim to reduce nepotism and misconduct in public office, Australia's approach is broader, more robust, and better equipped to address a wider range of unethical behaviors through strong enforcement and independent oversight. Indonesia's Act No. 28 of 1999, by contrast, faces limitations in scope and enforcement, with political and cultural factors hindering its effectiveness in tackling nepotism at all levels of governance.

4. Conclusion

Indonesia's current legal framework under Act No. 28 of 1999 is inadequate in addressing nepotism as a criminal offense. The law defines nepotism narrowly, limiting it to acts involving material harm in public appointments and procurement, while excluding broader forms of favoritism such as informal influence in hiring or promotions. Key legal elements, such as "public interest" and "unlawful benefit", are vague and poorly defined, creating ambiguity in interpretation. The law lacks procedural mechanisms for investigation or prosecution, and does not authorize independent bodies such as the Corruption Eradication Commission (KPK) to handle nepotism cases. Enforcement is delegated to politically influenced agencies like the National Police and Attorney General's Office, weakening consistency and credibility. In contrast, Australia directly addresses nepotism through the offence of Misconduct in Public Office (MIPO), which is either codified or retained in common law across jurisdictions. MIPO encompasses a broad range of misconduct, including favoritism, and is actively enforced through independent anti-corruption commissions such as the ICAC and CCC. These bodies have investigative authority and operate with institutional independence. This contrast demonstrates that Indonesia requires legal reform to expand the scope of its anti-nepotism provisions, clarify legal definitions, and establish independent enforcement mechanisms to ensure public officials are held accountable.

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