

# **CORRUPTION PREVENTION AND ERADICATION STRATEGY WITH REPRESIVE AND PREVENTIVE EFFORTS**

*Fauzy Marasabessy\**

## **I. INTRODUCTION**

Indonesia is known as a country with various advantages: its natural resources, demographic size and strategic position on the world map. However, all the benefits are not directly proportional to the acceleration of development and increase of people's prosperity. From various possibilities as a driving factor, one of them is corruption. The problems faced by Indonesia related to corruption have been described by World Bank East Asia:

Indonesia suffers from a very poor international reputation regarding corruption, ranking near the bottom alongside the most corrupt countries in the world. It is also perceived as doing worse over time in controlling corruption. Indonesians agree. They liken corruption to a "disease to combat, denouncing every known case." While these perceptions may be overly influenced by the new openness of a democratic Indonesia, corruption is high and imposes severe social and economic costs. It also contributes to citizens' loss of trust in governments. Greed eventually destabilized this careful construct, and the country has paid a heavy price in terms of a sharp accumulation of public debt, a damaged environment and above all, weak and corrupt institutions.<sup>1</sup>

However, it should be appreciated that eradicating corruption has become more progressive in the last decade since the fall of the Suharto regime. Following the reform era, corruption prevention and eradication (CPE) have become part of the main focus of the Indonesian government.

The determination to carry out CPE began with the establishment of new implementing agencies such as the Corruption Eradication Commission (KPK), the Financial Transactions Analysis and Report Center (PPATK), the Witness and Victim Protection Agency (LPSK) and a number of Anti Corruption Task Forces around the country by Police Departments and the Attorney General Office. Government initiated and consolidated many policies, and simultaneously internalized community awareness.

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\* Head of Section at Subdirectorte Taxation Violation of Prosecuting Directorate of Junior Attorney General for Special Crimes Office, Indonesia.

<sup>1</sup>World Bank East Asia Poverty Reduction and Economic Management Unit <<http://siteresources.worldbank.org>> accessed 17 Nov. 2018, Combating Corruption in Indonesia Enhancing Accountability for Development October 20, 2003, page 27.

The Attorney General Office as the Public Prosecution Service is the government institution that exercises the power of the state specifically in terms of prosecutorial power. As an institution with the authority in law enforcement and justice, the Attorney Service has a wider core of duties and powers, from investigation of special crimes up to execution of court sentences. These are added to the duties to maintain public order and stability, and supervision of religious and traditional beliefs which might be a threat to the state and the general public.<sup>2</sup>

With numerous duties applying to the legal field, the Attorney Service, as one of Indonesia's law enforcement institutions, is demanded to perform law enforcement roles that are free from corruption, collusion and nepotism, the upholding of the rule of law, the protection of the public interest, as well as the preservation of human rights. Referring to Legislation No. 16/2014, the Attorney General Office, as a government institution exercising the prosecutorial power of the state, must be independent in performing the functions, duties and powers, unbounded to any influence, either from the governing power or other parties (article 2 paragraph (2) Legislation No. 16/2004) in order to guarantee the professional service of the Attorneys. The order is directing the Attorney General duties and powers as stipulated in the article.<sup>3</sup>

From year to year, the Public Prosecution Service is developing and reforming so as to adjust itself in line with new legislation and to the expectations of the public. Thus, in 2011 the Public Prosecution Service adopted a series of measures to ensure maximum and optimal performance of its duties. With the passing of 2011, the Public Prosecution Service needs to map out the various measures and efforts that were adopted or made so as to identify the level of achievement of the targets adopted at the start of the year. This is particularly true as regards the core business of the Public Prosecution Service, namely, the handling of cases involving crimes of corruption.

For the Public Prosecution Service, the effort to achieve targets that accord with the expectations of the public is a far from easy challenge, but one that must nevertheless be tackled. The Public Prosecution Service is all too aware that the process of dealing with cases is not as easy as some imagine. The frequency of various types of crimes and violations is continuously increasing, as is the complexity of crimes. There have also been reforms of our *modus operandi*, including as regards the proving of *mens rea* and *actus reus*. The issue of why the Public Prosecution Service as an institution regularly faces constraints in the prosecution of crimes shall be one of the principal, often-discussed topics on the work of the Public Prosecution Service.

The challenges facing the Public Prosecution Service in the discharge of its duties are not only external in nature, but also internal. Based on an internal approach, the Public Prosecution Service is implementing reforms in all line units, both at the center and in the regions, including as regards the Service's personnel. Meanwhile, the external challenges, such as criticism, are regarded by

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<sup>2</sup> Attorney General RI, *Annual Report 2017*

<sup>3</sup> *Ibid.*

us as constructive and valuable input that is of great benefit to us in our efforts to reform the Public Prosecution Service. For that reason, the Public Prosecution Service is engaged in a continuous process of change through the optimization and honing of strategies for the handling of corruption cases so as to recover state funds and increase state revenue.<sup>4</sup>

According to article 30 of Law Number 16 of 2004 on the Public Prosecution Service, the duties and powers of the Public Prosecution Service in the criminal arena are as follows:

- a. To conduct prosecutions;
- b. To enforce judicial orders and decisions of final and conclusive effect;
- c. To conduct supervision of those serving conditional sentences, placed under supervision orders, or released on parole;
- d. To investigate certain types of suspected crimes as stipulated by law;
- e. To complete certain types of case files, and for such purposes to conduct additional investigations prior to the forwarding of such files to the court, which investigations are in practice carried out in condition with the investigators.<sup>5</sup>

Economic growth and national development as efforts to increase society's wealth, will improve as long as the law is enforced. Otherwise, law could be functionable and accommodate justice if economic growth and society's wealth are increasing. Good law enforcement in all aspects can give chance and opportunity to development stake holders to make innovation and creation without any fear.

Law should be responsible and anticipate changes in society. In the law enforcement context, responding to and anticipating problems is known as prevention and repressive action if done together. The conclusion about the connection between prevention and repressive action basically makes sense, because preventive tasks could not be effective without firm repressive action for any violations.

## II. MAIN DISCUSSION

### A. Corruption prevention and eradication (CPE) in Indonesia.

Prevention and eradication of corruption (CPE) as a national policy is a form of the government's commitment to run a clean and dignified country. For that reason, it is the determination of law enforcement officials to implement it. The determination to implement the CPE is a persistent and strong commitment to create a government that is clean and has integrity.

Effort in CPE by the Government of Indonesia as explained by UNDOC Indonesia below:

Efforts in corruption prevention and eradication (CPE) actually began long ago during the era of the Soekarno administration (with the enactment of

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<sup>4</sup> Public Prosecution Service of the Republic of Indonesia, 2011 Annual Report, page 2.

<sup>5</sup> Ibid. at VIII.

Government Regulation in Lieu of Law 24/1960 on the Prosecution, Investigation, and Examination of the Crime of Corruption) up to the Soeharto administration (with the enactment of Law 3/1971 on Corruption Eradication). During the era of reform, the efforts in CPE grew more intensive after the government ratified the United Nations Convention Against Corruption 2003 by Law 7/2006. In addition, the government also issued a number of Presidential instructions as well as a mandate regarding CPE and established several agencies to implement and support the CPE efforts, such as the Corruption Eradication Commission, the Financial Transactions Analysis and Report Centre, and the Witness & Victim Protection Agency. Over the last four years, the Government has formulated a National Strategy for Corruption Prevention and Eradication (Nastra CPE) consisting of long-term objectives and medium term objectives. Nastra CPE provides direction and a source of reference for the various CPE efforts which is more comprehensive for all the stakeholders. Good reference is necessary in order to have a concrete impact on the improvement of welfare, sustainable development, and the consolidation of democracy.<sup>6</sup>

According to the National Strategy, CPE has both a long-term vision and medium-term vision. The vision for the long term (2012-2025) is: “to create an anti-corruption nation that is supported by a system of cultural values with integrity”, whereas for the medium term (2012-2014) the vision is “to create a government that is free from corruption, and having the capacity to prevent and take action against corruption and a system of integrity as a cultural values”. The long-term vision and medium-term vision shall both be realized in all domains, that is, within the government in a broad sense, the civil society, as well as the business world.

The vision is expressed in the following missions:

- a. To build and establish a system, mechanism, capacity for preventing and taking action against corruption which is integrated on a national scale;
- b. To reform the national laws and regulations that support CPE in a consistent, consolidated, and systematic manner;
- c. To build and consolidate a system and mechanism for confiscating the assets gained by corruption through effective national and international cooperation;
- d. To build and internalize an anti-corruption culture among the government structure and the society; and
- e. To develop and publicize a system for reporting the performances in implementing Nastra CPE.<sup>7</sup>

The Vision and Mission are then formulated into six strategies as follows:

- a. Prevention;

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<sup>6</sup> Government of Indonesia – Presidential Decree No 55 Year 2012 Annex National Strategy on Corruption Prevention and Eradication 2012-2014 and 2012-2025, provided by UNODC Indonesia, page 3.

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- b. Law enforcement;
- c. Harmonizing the Laws and Regulations;
- d. International Cooperation and Asset Return Based on Court Verdict;
- e. Anti-Corruption Education and Culture; and,
- f. Mechanism of Reporting Corruption Eradication Actions.

The two previous strategies, prevention and law enforcement, are the main themes of this paper.

1. Prevention

Corruption is still massive and systematic. Its practice can occur everywhere, within government agencies, private agencies, and even in day-to-day life. In view of such conditions, it is only fitting that the prevention of corruption be given the position of priority as the first strategy. Through a prevention strategy, it is hoped that other steps will come forth as contributions for improvements in the future. This strategy is the answer to an approach which is more focused on repressive action. The paradigm for development of a repressive approach is that it provides a punitive effect on the perpetrator of the crime of corruption. Unfortunately, however, the repressive approach has apparently not yet been able to reduce corruptive behaviour and practice systematically and on a massive scale. The success of the prevention strategy is measured by the increase in corruption perception index value and the rate of starting businesses.<sup>8</sup>

2. Law Enforcement

There are still many corruption cases that have not yet been completely resolved, yet the interest and attention of the public has been drawn to such cases for a long time, and they expect to see a fair settlement. When law enforcement is inconsistent in its positive law, it will consequently affect the degree of trust of the community towards the law and its apparatus. When trust is weak, the public will be driven towards forming the opinion that the law can no longer be trusted as a means for settling conflicts. People will tend to settle their conflicts and problems in their own way which, unfortunately, is often in opposition with the law. Also, when there are other parties who take advantage of this inconsistency in law enforcement for their own interests, it aggravates the situation even more. The absence of trust in the community naturally creates a sense of dissatisfaction and the feeling that the legal institutions and their apparatus are unfair. And at any time when there are attempts to improve law enforcement in Indonesia, this condition will be an obstacle in itself. For this reason, the settlement of corruption cases that have attracted the attention of the public must, absolutely, be accelerated. The rate of success of this strategy is measured by the conviction rate in courts handling the cases of crime as a corruption.<sup>9</sup>

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<sup>8</sup> Ibid.

<sup>9</sup> Ibid.

The focus of priority activities related to improvement of law enforcement mechanisms in order to improve public trust towards the authorities and law enforcement agencies are:

- a. Strengthening and improving the consistency of legal and administrative sanctions for the actors as well as law enforcement officers who deviate and abuse their authority or carry out corruption crime.
- b. Strengthening of legal sanctions against abuse of authority, for instance by returning assets of corruption and paying for damages caused by the said abuse of authority.
- c. Strengthening the coordination of handling of corruption cases among law enforcement agencies with the support of a comprehensive IT (e-law enforcement).
- d. Anti-bribery and corruption regulations in the professional code of ethics for lawyers, public accountants, tax consultants etc.
- e. Giving heavier sanctions for bribery performed by professionals having codes of ethics.
- f. Revocation of license, return of profit, and compensation for entrepreneurs / individuals who bribe.
- g. Application of reverse burden of proof on unexplained wealth.
- h. Facilitate the process of obtaining bank information by law enforcement agencies in the framework of corruption eradication.
- i. Limiting remissions granted to perpetrators of corruption.
- j. Consistency of law enforcement in all regions.<sup>10</sup>

These efforts have begun to show results: The determination to eradicate corruption is widespread throughout Indonesia. This is evident from the increased amount of state funds/assets that have been saved each year as the result of prevention and the settlement of corruption cases brought to court. For comparison, the following chart shows the number of corruption cases handled by the Indonesian National Police, the Indonesian Prosecution Service and the Corruption Eradication Commission over the last four years:<sup>11</sup>

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<sup>10</sup> Ibid.

<sup>11</sup> Based on CEC RI Repression Division data.

**Number of Corruption Cases  
Handled by Law Enforcement Agencies**



**B. Team of Aide, Governance Security and Central Development (TP4P) and Team of Aide, Governance Security and Regional Development (TP4D) as a prevention effort.**

In the presidential speech during the general assembly of the House of Representatives and the Regional Representative Council on August 14, 2015, President Joko Widodo expressed national reconciliation as an effort to conclude the cases on severe violation against human rights in the past by means of establishing a Reconciliatory Committee for the cases of severe violation of human rights. The Team of Aide, Governance Security and Central Development (TP4P) and the Team of Aide, Governance Security and Regional Development (TP4D) serve as guardians and security forces for the government and development to accelerate national development. The decline in Indonesia's economic growth that reached 4.67% within the 2nd quarter of 2015 indicated weakening in the national economy.

As a response and to make concrete steps to eradicate corruption with prevention efforts, the Attorney General Office in performing the Attorney Service duties and powers on prevention, established the Team of Aide, Governance Security and Central Development (TP4P) in the Attorney General Office and the Team of Aide, Governance Security and Regional Development (TP4D) in the Provincial Attorney Services (KEJATI), and the District Attorney Services (KEJARI) throughout Indonesia with the objective to exhort acceleration in budget disbursement.<sup>12</sup>

To accelerate development in Indonesia, RI. Attorney General, H.M. Prasetyo always encourages the members of his group to upgrade the performance of TP4P and TP4D. Implementing an Attorney General order in the 2nd quarter of 2018, the number of TP4D activities increased from 294 to 607 activities; meanwhile, TP4P increased from 19 to 28 activities. In line with the activities, project value also experienced an increase. With TP4D assistance, IDR. 69,197 Billion succeeded and was secured from leakage and misuse, while TP4D IDR. 20,174 Billion. The Attorney General said that TP4 was a means to put law enforcement in line with state policies in implementing development.

<sup>12</sup> Attorney General RI, *Annual Report 2015* at 2-3.

### **C. The Special Task Force for Countermeasure Acts and Disposal of Corruption Cases (Satgassus P3TPK).**

Performance of duties and functions in the special crime division is strongly related to the development agenda within the extent of the prevention and eradication of corruption as stated in the 2015-2019 Mid-Term National Development Planning (RPJMN) that is directed to synchronizing of regulations against corruption, intensification of international collaboration in asset seizure, protection for justice collaborators, improving the effectiveness of various strategies for the prevention and eradication of corruption in ministries, institutions, and local government by means of employing the national strategy for the prevention and eradication of corruption education on anti-corruption and supervision of public service. Aligned with the 2012-2025 Long-Term National Strategy for the Prevention and Eradication of Corruption and the 2012-2014 mid-term stated in Presidential Order No. 55/2012, the Attorney General Office has been implementing preventive and countermeasure activities to eradicate corruption. Preventive Measure in Eradication of Corruption Crime Cases throughout 2015, preventive measures to eradicate corruption within the Attorney General Office have been done through the coordination with all divisions (Special Crime, General Crime, Intelligence, Civil and State Administrative, Supervision, Development). Implementation of activities comprise:

- Ensuring transparency and accountability of The Attorney Service case disposal by usage of information technology based case disposal system;
- Strengthening of Network for Anti-Corruption, Collusion and Nepotism Community (Jaringan Masyarakat Anti KKN);
- Management of e-Procurement for goods and service and certification for Goods and Service Procurement Expert;
- Delivered Legal Information and Outreach, which one of the materials was Countermeasures Against Corruption and Preventive Actions;
- Conducted mapping for corruption high risk corporations to eradicate corruption crime cases;
- Conducted outreach to all The Attorney Service networking on prosecution acts against multiple layered crime cases of conjoined crimes of corruption and money laundering.

The concrete steps taken by the Attorney General Office in performing the Attorney Service duties and powers in law enforcement by the Special Task Force for Countermeasure Acts and Disposal of Corruption Cases (Satgassus P3TPK), as an effort to strengthen the presence of the state in eradication of corruption. Corruption is one of the many challenges that must be confronted. To rise against the challenge, the Attorney General Office has formed the Special Task Force for Countermeasure Acts and Disposal of Corruption Cases (Satgassus P3TPK) in the Attorney General Office to perform countermeasures for corruption cases.

The establishment of P3TPK has also become the triggering effort to eradicate corruption that occurs within all of the Attorney Service task forces throughout Indonesia. The achievement of the countermeasure acts in corruption cases that occurred within the Attorney Service taskforces throughout Indonesia is summarized as below:

**Achievement of Corruption Prosecution  
Period January – July 2017<sup>13</sup>**

N O	ATTORNEY OFFICE	PROSECUTION By Cases Origin		RECOVERED STATE'S WEALTH(IDR)
		AG for Special Crimes Department	Police Departement	
1	2	3	4	5
1	AG.FOR SPECIAL CRIMES	44	16	192,711,823,105.00
2	N.A.D (ACEH)	18	9	6,629,105,846.00
3	NORTH SUMATERA	46	29	150,000,000.00
4	WEST SUMATERA	4	14	321,195,535.00
5	RIAU	23	23	27,958,827,795.32
6	JAMBI	22	16	1,286,558,522.00
7	SOUTH SUMATERA	27	5	2,051,763,174.00
8	BENGKULU	8	12	2,740,323,354.00
9	LAMPUNG	15	21	2,441,227,332.35
10	DKI JAKARTA	33	25	3,743,314,500.00
11	WEST JAVA	26	26	1,802,870,296.90
12	CENTRAL JAVA	22	28	7,203,653,558.47
13	D.I. YOGYAKARTA	17	4	851,593,200.00
14	EAST JAVA	82	57	87,366,341,726.00
15	BALI	9	5	6,414,647,572.00
16	NTB	8	12	647,555,475.07
17	NTT	22	14	1,977,253,942.00
18	WEST KALIMANTAN	16	5	6,094,063,940.42
19	CENTRAL KALIMANTAN	28	15	6,577,913,475.03
20	SOUTH KALIMANTAN	8	8	18,042,219,383.93
21	EAST KALIMANTAN	21	14	7,938,829,525.00
22	NORTH SULAWESI	9	12	4,289,133,561.00
23	CENTRAL SULAWESI	17	12	0.00
24	SOUTH EAST SULAWESI	39	10	2,190,859,700.00
25	SOUTH SULAWESI	59	49	53,059,383,608.00
26	MALUKU	16	6	670,080,000.00
27	PAPUA	55	29	2,298,308,122.00

<sup>13</sup> Based on Directorate of Prosecution, Junior Attorney of Special Crimes Office data.

28	BANTEN	9	6	3,601,581,473.20
29	BANGKA BELITUNG	10	4	2,717,056,923.00
30	GORONTALO	4	2	0.00
31	NORTH MALUKU	9	4	17,626,803,257.00
32	KEP. RIAU	6	4	3,056,904,166.00
<b>AMOUNT</b>		<b>732</b>	<b>496</b>	<b>474,461,192,068.69</b>

Countermeasures still have strategic value to regain public trust in institutional performance of the Attorney Service. From the aspect of implementation, the Attorney Service has attempted to carry out 'at cost system' in providing budget to operate the acts of countermeasures against corruption. The Attorney Service set the conditions of existence of qualitative improvement in the handling of corruption crime cases, from the phase of investigation, examination, prosecution and execution, so as to make the eradication of corruption not merely about the increased numbers of cases disposed but also about the observation of the quality of case management. Eradication of corruption is not only to enable penalization of the perpetrators but also to enable the recovery of loss to the state's wealth. Wealth and assets of the perpetrators will be confiscated for evidence to be deliberated in the charge for restitution. Reformative steps of bestowing full power to each Head of Provincial Attorney Service and Head of District Attorney Service as leaders at the regional level for controlling the handling of corruption case crimes were expected to enable smooth and faster handling of corruption crime cases devoid of the need to endure lengthy bureaucratic lines without abandoning local wisdom by putting conscience forward and delivering proper reports of the implementation to the superior level.

### III. CONCLUSION

Law enforcement needs to be supported by an adequate regulatory framework to ensure that law enforcement can fulfill the public's need for justice and that suspected criminals of corruption are not fleeing, until corrupted state assets are safe. Supervision of the institutions, officials, and the elements of law enforcement related professions, also needs to be reinforced through public participation. Public participation, either as complainant or witness, is still not supported by legal protection that should be duly received. Complaint mechanisms for the community are not well established, as well as transparency of settlement of corruption cases. These factors increasingly worsen existing conditions. In view of such conditions, the corrective measures with strategies that can address these issues are urgently needed in order to optimize law enforcement. Therefore, in addition to the efforts in corruption prevention, it is reasonable that law enforcement be placed as the second pillar of the Nastra-CPE. Objective Completion of corruption cases consistently and in accordance to the applicable laws to restore public trust in just and transparent law enforcement.

This law enforcement process starts from the process of submitting a complaint, to pre-investigation, investigation, prosecution until execution of verdict. The success of this strategy is measured through the achievements of the Corruption Law Enforcement Index, which covers five sub-indicators as follows:

- a) Percentage of the settlement of corruption complaints, accounted from the number of corruption complaints raised to the pre-investigation stage compared with the total number of complaints received by law enforcement officers;
- b) Percentage of the settlement of corruption pre-investigations, accounted from the number of corruption pre-investigations raised to the investigation stage compared with the total number of corruption cases under pre-investigation;
- c) Percentage of the settlement of investigations, accounted from the number of corruption investigations raised to the prosecution stage compared with the total number of corruption cases under investigation;
- d) Conviction Rate, accounted from the number of guilty verdicts on corruption cases compared with handover of corruption case dossier to the court;
- e) Percentage of the settlement of execution of verdicts, accounted from the number of verdicts in execution (body) compared with the total number of legally binding corruption case verdicts. In its implementation, this strategy requires good support and coordination from the concerned law enforcement agencies, including the Police, the Attorney's Office, the KPK and the Supreme Court.<sup>14</sup>

Aligned with the 2012-2025 Long-Term National Strategy for the Prevention and Eradication of Corruption and the 2012-2014 mid-term stated in Presidential Order No. 55/2012, the Attorney General Office has been implementing preventive and countermeasure activities to eradicate corruption. Preventive Measures in Eradication of Corruption Crime Cases throughout 2015, preventive measures to eradicate corruption within the Attorney General Office have been done through the coordination with all divisions (Special Crime, General Crime, Intelligence, Civil and State Administrative, Supervision, Development). Implementation of activities comprised:

- Ensuring transparency and accountability of the Attorney Service case disposal by usage of the information-technology-based case disposal system;
- Strengthening of the Network for Anti-Corruption, Collusion and Nepotism Community (Jaringan Masyarakat Anti KKN);
- Management of e-Procurement for goods and service and certification for Goods and Service Procurement Expert;
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- Conducted mapping for corruption at high-risk corporations to eradicate corruption crime cases;
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<sup>14</sup> Government of Indonesia – Presidential Decree No 55 Year 2012 Annex National Strategy on Corruption Prevention and Eradication 2012-2014 and 2012-2025, provided by UNODC Indonesia.

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