

THE INDONESIAN CORRUPTION ERADICATION COMMISSION (KPK)

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I. INSTITUTIONAL HISTORIES

The Indonesian Corruption Eradication Commission, or better known as KPK in Indonesia, was established in 2003. The impetus to create KPK was the economic crises during 1997, which subsequently also led to the downfall of President Soeharto. KPK was established to combat the extraordinary crime of corruption in Indonesia, which is rampant, systemic, and affecting the lives of practically everyone in the country. During the crises, there was a sense that drastic measures were needed to tackle corruption, which contributed to the country's difficulties.

Before the KPK was formed, dating back to the 1950s, six institutions have historically been established to combat corruption. However, the lives of these previous institutions were very short, mainly because they only focused on law enforcement. The KPK's much more solid track record owes much to its comprehensive contemplation of how systemic corruption had become – law enforcement alone would never had sufficed; the fight against corruption has to be accompanied by prevention efforts, supervision and coordination of all law enforcement institutions involved in processing corruption cases. And not less important is that it must include the participation of the public. All these concerns were provided for in Law No. 30 of 2002 on the Corruption Eradication

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Commission, which sets out the KPK's authority, powers and duties of law enforcement in the aforementioned comprehensive manner.

In addition to the Law No. 30 of 2002, in conducting law enforcement operations the KPK follows the main Indonesian anti-corruption laws, namely Law No. 31 of 1999 as amended by Law No. 20 of 2001 on The Eradication of Corruption, Law No. 28 of 1999 on Corruption-Free State Governance, and Law No. 8 of 2010 on Combating Money Laundering Crime. KPK has power to handle money laundering crime as long as the predicate crime is corruption.

II. KPK AUTHORITIES AND FEATURES

According to the article 6 of Law number 30 year 2002, there are 5 categories of KPK's duties, authorities and obligations, as follows:

1. coordinate with institutions authorized to combat acts of corruption
2. supervise institutions authorized to combat acts of corruption
3. conduct preliminary investigations, investigations and prosecutions against acts of corruption
4. conduct corruption prevention activities, and
5. conduct monitoring of state governance

KPK is authorized to conduct pre-investigation, investigations, and prosecutions against corruption cases that:

1. involve law enforcers, state officials, and other individuals connected to corrupt acts perpetrated by law enforcer or state officials
2. have generated significant public concern; and/or
3. have lost the state at least IDR 1,000,000,000 (USD 100,000)

KPK has some unique features compared to other law enforcement agencies. KPK is led by 5 Commissioners, 2 Advisors, and 735 personnel. The five-person commissioners

serve as a collegial body, which introduces greater accountability. It is much harder to influence the decision of a five-person body than the decision of a single individual. The collegial character of KPK leadership also has the advantage of being able to spread the workload among five commissioners.

KPK is independent from the executive, legislative, judiciary and any other powers. Financially, KPK is audited by the Indonesian Supreme Audit Board (BPK) and should be responsible to the public. In doing the tasks, KPK has the authority to supervise and coordinate with the Attorney General Office as well as the National Police in handling corruption cases.

As mentioned earlier, KPK has the authority to investigate. This authority is broad because KPK can investigate any public official for corruption, including members of parliament, judges and even the military. Although KPK can investigate members of the military, it cannot prosecute members of the military. KPK has to date already succeeded in convicting several members of Parliament and officials in the Judiciary, as will be elaborated in the next session. KPK essentially has all the investigative powers of a law enforcement agency. It can conduct wiretaps on suspects, examine their bank account and tax records, as well as freeze their assets, issue hold orders and make arrests.

III. THE WORK OF KPK

A. Prevention of Corruption

The Deputy of Prevention also conducts anti-corruption coordinative efforts, including: (i) coordination with the Minister of Home Affairs to push for the realization

of the National Single Identification Number program, (ii) coordination with the internal monitoring units of all government institutions (iii) coordination with government institutions and State Owned Enterprises in stock taking all state assets under the unauthorized control of officials and former officials (the results of this particular coordinative effort being that several officials have returned assets voluntarily), (iv) coordinating with the State Ministry of State Owned Enterprises to obtain information on public officials who also act as Commissaries at State Owned Enterprises (with all the conflicts of interest that entails that sort of arrangement); (v) coordinating with State Ministry of Apparatus and Bureaucracy Reform to trigger the civil service reform.

The KPK also continues to improve the transparency of how public officials conduct their affairs by increasing the compliance of Wealth Reporting (LHKPN), as well as the effectiveness with which such reports are examined and confirmed. Other than this, the KPK's continuing dedication to monitor gratuity (the giving of gifts to public officials which sets a precedent to corruptive behaviour down the road, or given in the interest of maintaining corruptive relations) further supports the KPK's push for transparency in the interest of prevention.

Wealth Report Compliance

Year	Number of Mandated Reporters	Number of Reporters
2005	102,229	52,137
2006	116,669	65,448
2007	84,813	76,116
2008	110,892	95,359
2009	128,030	104,329
2010	144,557	118,340
2011*	180,831	146,803

*as of Oct.

Number of Gratuity Reports

2005	2006	2007	2008	2009	2010	2011*
50	326	249	266	335	393	1155

* as of Oct.

KPK realizes that corruption sometimes is triggered by bad systems. Regarding this matter, KPK also performs its monitoring authority that is to evaluate the administrative management systems of state and public institutions, to provide recommendations to these institutions, and to monitor the implementation of the recommendations. The systems/institutions that have been reviewed by KPK include: the land agency, import administration system, state budgeting, taxation, state treasury, management of migrant worker, court tax, immigration, penitentiary, and funding of political party.

The priority of which administration system to be reviewed is based on the amount of the budget under the administration system, the number prone to corruption system weaknesses, and the impact on the national economy and public service. Working closely with the relevant institutions, KPK is now monitoring the implementation of these institutions' action plans.

To support the efforts to eradicate corruption, some studies and surveys have been done to make the efforts more effective and efficient. These have included: surveys on public perception towards KPK, integrity surveys to assess the level of public services in some institutions and local governments, anti-corruption initiative assessment surveys, studies on good governance in local governments and disseminating the implementation

of its principle to other regions, studies on electronic public procurement, and studies on good corporate governance in some state owned and private companies which are listed on stock exchanges.

For longer-term purposes, being the creation of a new generation that rejects corruption, KPK has programs on anti-corruption education. This includes: campaigns in many forms in mass media, development of anti-corruption modules for school, anti-corruption education programs, recruitment of anti-corruption cadres, seminars, talk-show programs, and development of anti-corruption curricula for schools.

A. International Cooperation

The aforementioned Integrity Survey was also conducted after comprehensive cooperation and capacity building of the KPK's knowledge management of Integrity with South Korea's Anti-Corruption and Civil Rights Commission (ACRC). By using concepts of measuring and improving Integrity from the South Koreans, the KPK has initiated intense dialogue in improving the Integrity scores of the lowest scoring public institutions. Some other tools learned from ACRC include: anti-corruption initiatives assessment and corruption impact assessment.

The KPK has also learned much from its cooperation and correspondence with many fellow anti-corruption agencies in the South East Asian, East Asian and South Pacific regions, such as the Malaysian Badan Pencegah Rasuah (Malaysian Anti Corruption Commission - MACC); the Brunei Biro Mencegah Rasuah (BMR); the Thai National Counter Corruption Commission (NCCC); the Philippine Ombudsman; the Hong Kong

Independent Commission Against Corruption (ICAC); the New South Wales Independent Commission Against Corruption (ICAC); and the Singapore Corrupt Practices Investigation Bureau (CPIB). Cooperation ranges from law enforcement activities in anti-corruption, training activities, as well as dialogues in corruption prevention.

B. Repression of Corruption

1. Case Load

The KPK's case load in law enforcement activities as of Dec. 15, 2009 are as follows:

Year	Pre-Investigation	Investigation	Prosecution	Execution
2004	23	2	2	0
2005	29	19	17	4
2006	36	27	23	14
2007	70	24	19	23
2008	70	46	37	23
2009	68	37	34	37
2010	54	40	32	34
2011*	68	32	36	30
Total	418	227	200	165

*as of Oct.

KPK cases which have reached final decision are as follows:

Resolved	2004	2005	2006	2007	2008	2009	2010	2011	Total
District Court	0	3	5	9	9	20	21	19	86
Provincial Court	0	0	4	0	0	2	2	0	8
Supreme Court	0	2	8	14	14	15	11	11	75
Total	0	5	17	23	23	37	34	30	169

* as of Oct.

Among the corruption cases handled by the KPK from 2004 – 2009, involving some high ranking officials as follows:

- 45 members of Parliament
- 8 Ministers/Head of Ministerial level
- 8 Province Governors

- 1 Governor of central bank, 4 Deputy Governor
- 27 Mayors and Head of Regents/District
- 6 Commissioners of General Election; Judicial; Anti-monopoly Commission
- 3 Judges, 3 Prosecutors of the Attorney General's Office
- 3 Ambassadors and 4 General Counsel, including Former Chief of National Police
- Senior Prosecutor, KPK's investigator, many high ranking government official echelon I & II (Director General, Secretary General, Deputy, Director, etc.)
- High ranking CEOs involved in public corruption

2. Recovering Stolen Assets

One of the best indicators of the KPK's success in performing its repressive law enforcement activities is the return of stolen state assets. During its early days, the KPK was criticized for not being able to recover assets exceeding the cost of running the KPK. Recently, this figure has drastically been overturned. The figures are shown on the tables below:

	2005 (IDR)	2006 (IDR)	2007 (IDR)	2008 (IDR)	2009 (IDR)	2010 (IDR)	2011* (IDR)
State Funds Lodged to the Treasury	6.959.166.167	12.990.522.190	48.454.936.028	411.800.133.417	142.993.950.300	189.371.372.650	134.581.573.850

* as of Oct.

Regarding the process of taking over an indictment or a prosecution process by the KPK, it will be carried out by the KPK should some conditions prevail, for example: a report about an act of corruption has been ignored, the processing of the corruption case goes on for too long/delayed without a valid reason, the handling process is itself mired by corrupt acts, or the case has been hampered by executive, legislative, or judicial interference.

In addition to performing direct repressive law enforcement by processing cases for the anti-corruption courts, the KPK also performs coordination and supervision

operations involving law enforcement officers from the Police and the Attorney General's Office.

Coordination of law enforcement efforts is conducted by way of conducting meetings with the Attorney General's Office and the Police Headquarters. The results of such coordinating meetings include: (i) establishing a pattern for cooperative coordination and supervision in the area of investigations and prosecution in corruption cases, (ii) establishing mechanisms for the taking over of corruption cases by involved institutions, (iii) the establishment of coordination and supervision material that include the synchronization of corruption cases data that had been reported or transferred to the KPK, as well as establishing criteria for certain corruption cases that need to be supervised.

C. Synergy between Prevention and Repression

It has been learned from the previous anti-corruption agency that it is very important to concurrently conduct the prevention and repression approach towards corruption. Further, there should be a comprehensive approach of prevention and repression activities. The activities below are some examples.

As an independent agency that is fully responsible for corruption prevention efforts, the KPK is actively involved in triggering civil service reform at various pilot institutions in Indonesia. The Ministry of Finance is one institution which has implemented bureaucratic reform efforts. For certain service units under the Ministry of Finance such as the Tanjung Priok Customs General Services Office, such salary improvements were

substantial. Unfortunately, those salary improvements did not improve the performance nor the integrity of the personnel. Bribery is a common transgression, even when reform efforts were being conducted. The KPK, in cooperation with the Customs and Excise Office's Internal Compliance Division, performed raids at the Green Line (processing of documents from credible companies) and the Red Line (processing documents for dangerous goods) at the Office, as well as on the vehicles used by officers working there. The raid discovered evidence in the form of bribe money amounting to US\$ 50,000 in the timespan of several hours of operations. From the raids, it has been indicated that several officials at the Customs and Excise Office may be processed further by the legal system.

KPK has processed a case involving an official from Bank Indonesia. In respect of that, the KPK also assisted Bank Indonesia by intensifying preventive efforts by analysing Bank Indonesia internal rules that potentially create conflicts of interest. Internal rules that are analysed by the KPK in cooperation with Bank Indonesia include rules regarding legal protection for personnel and regarding work related travel.

IV. CHALLENGES

In recent years, corruptors' resistance has taken place in different forms. The attacks against anti-corruption activities were done through various methods and channels. For example, the general courts have not been giving much support as many corruptors are freed by their verdict. There are also some issues that have not been regulated regarding the efforts to eradicate corruption. For example: private to private sector corruption, and the draft Law of Criminal Procedure has not been passed. This law is important for the reason that at the moment KPK cannot have its own investigator and prosecutor. Its

investigator must come from the Police and the Attorney General's Office. In addition, in the level of government decree, topics like witness protection, lawful interception, and wealth reporting have not been settled.

The newly passed law of the Anti-Corruption Court also poses new challenges to KPK. The law requires that in some regions should be established Anti-Corruption Courts, compared to current existing condition with only one Anti-Corruption Court in Jakarta. This new condition would pose problems of technical coordination and supervision because KPK does not have branch offices in those regions.

Some challenges come from the internal side as well. Firstly, the KPK's human resources are relatively small compared to the 220 million total population and vast geographic conditions of Indonesia. Secondly, the current KPK office building is not really providing enough operational space for all of its personnel. The proposed budget for a new building has not been approved yet by the Parliament. Lastly, the KPK currently still has to borrow the detention house from the police.