

Talking Points on the Jakarta Principles

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I would like to thank the KPK of Indonesia for convening this special event and for inviting me to take part in it. I would like to share with you some lessons learned from the past five years of implementation of the Jakarta principles and some forward-looking perspective for the future of the Jakarta principles.

On lessons learned, I would like to make four points.

- (1) **All Jakarta principles are vital for the effectiveness of anti-corruption agencies.** There are 16 principles in the Jakarta principles. Every principle is essential for the effectiveness of anti-corruption agencies. It's not a matter of choice whether to comply with one or the other principle. All principles are important. The Jakarta principles are like a house of cards, 16 cards stacked onto each other. If you pull one out, the whole house will fall down. If it doesn't fall down, at least it will struggle and have challenges to maintain its independence and effectiveness. Agencies that are fully compliant with the Jakarta principles, will most definitely be very effective agencies. Partially compliant agencies will most likely be subject to political interference constraining their effectiveness. So, the first lesson learned is: all Jakarta principles are important.
- (2) **Every Jakarta principle is important, but some are more important than others.** Some principles are like an Achilles heel. Your agency may be strong on all Jakarta principles, but if it misses out on one particular principle, it can be extremely vulnerable. Those principles are the following: (1) permanence, that is to say having a strong legal basis for existing; (2) removal, having a procedure that makes it difficult to remove the head of agency; (3) adequate and reliable resources, having secure resources where the tap cannot be turned off easily; (4) appointment, having a procedure in place that ensures a proper candidate is identified to head the anti-corruption authority; and (5) public communication and engagement, regular communication is critical to ensure public support for the agency. This is particularly important in times when the agency comes under attack from the

executive, legislative or judicial branches of power. So, the second lesson learned is: there are at least five cardinal principles. If disrespected, the agency is vulnerable to a sudden attack that can bring its activities to a halt.

- (3) **The Jakarta principles have been useful.** They have been useful for three reasons: (1) The Jakarta principles have somewhat clarified the meaning of the wording “necessary independence” used in the Articles 6 and 36 of the UN Convention against Corruption. (2) They have been useful to shape new legislation in multiple countries around the world. (3) They have been used at times to defend agencies against political interference. For example, in one instance, where people holding a political party card were nominated as commissioners of an agency, the head of the agency invoked the Jakarta principles to demand those people give up their political party card, which they did, in order to serve in the agency. One of the purposes for creating the Jakarta principles has been to provide a weapon to anti-corruption fighters against political interference. Anti-corruption agencies are often attacked and are often in a defensive position. However, the Jakarta principles give the opportunity to go onto the offensive and to demand for more independence to ensure greater effectiveness of the anti-corruption agency. The best defense is a good offense. The Jakarta principles provide the means to be on the offensive, rather than to be on the defensive. So the third lesson learned is, the Jakarta principles have been useful.
- (4) **The Jakarta principles are not perfect.** The Jakarta principles are a product of negotiation reflecting common standards for agencies from around the world. Inevitably, that sometimes leads to some vagueness and sometimes the lowest common denominator. It might be helpful to clarify further some of the principles, to clarify how they can be put into practice or how they have been put into practice already in different countries. A Commentary on the principles would be useful. The Jakarta principles are also a product of their time, and new lessons have been learned in the meantime. For example, the Jakarta principles say nothing about the duration of a mandate for a head of agency. One could argue that this is implicitly included in the “security of tenure”, but one could also argue a 17th principle is required to provide a reasonably lengthy mandate to heads of anti-corruption agencies. In some countries, the

mandate is only two or three years long. It is very difficult to achieve meaningful progress in such a short time span. However, whilst the Jakarta principles may not be perfect, I would argue they are nearly perfect and they are definitely good. As the saying goes, “perfect is the enemy of good”. So, the fourth lesson learned is: the Jakarta principles may not be perfect, but they are good.

So, looking now at the future of the Jakarta principles, I would like to make four observations:

- (1) **“Don’t ask what the Jakarta principles can do for you, ask what you can do for the Jakarta principles”**, to paraphrase former President John Fitzgerald Kennedy. It’s everyone’s responsibility to be involved and to promote the Jakarta principles, in your respective home countries, in international settings, whether regional, sub-regional or global meetings. The Jakarta principles need to be widely disseminated, they need to be lived and they need to be invoked at all times to defend and promote the independence of anti-corruption agencies, in line with Articles 6 and 36 of the UN Convention against Corruption.
- (2) **The Anti-Corruption Agencies have a primary responsibility in promoting the Jakarta Principles.** If anyone could establish an enforcement mechanism for the Jakarta principles, it’s the anti-corruption agencies themselves. In the same way that the national human rights institutions have established an accreditation system for their institutions based on the “Paris principles”, the anti-corruption agencies could establish an accreditation system based on the “Jakarta principles”. The system would not be intended to name and shame any institution, but it could help to motivate governments to establish Jakarta principles compliant institutions. There might be other ways of creating peer pressure, for example, by bringing together anti-corruption authorities that are Jakarta principles compliant and form an international association of those that are 100% or at least 90% compliant. But it is up to the Anti-corruption authorities to be creative and find ways of enforcing the Jakarta principles.
- (3) **Other actors can play a role in monitoring compliance with the Jakarta principles.** For example, we have heard of transparency international’s efforts through its report on strengthening anti-corruption agencies in Asia Pacific, which made use of the Jakarta principles in assessing six agencies in the region. That is a good example. Experts taking part in the

UNCAC review mechanism could also take a leaf from the Jakarta principles in monitoring compliance under article 6 of the UNCAC, but it's up to the peer reviewers to take this initiative.

(4) UNODC and UNDP will continue to promote the Jakarta principles in the technical assistance they provide to countries.

In conclusion, if we all make our contribution in the promotion of the Jakarta principles, we can make sure the Jakarta principles do not remain an Asian Tiger on paper, we can make sure the Jakarta principles become a reality around the world, in Constitutions, in legislation and in day-to-day practice.

Thank you for your attention.