Eight Session of the COSP to UNCAC
Abu Dhabi, December 16th 2019

2019 INDONESIA ANTI-CORRUPTION AGENCY (ACA) UPDATE

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Secretary General, Transparency International Indonesia
Notable Points

ACAs in Indonesia: Rise and Fall
Since 1959, Indonesia has established (and simultaneously dissolved) 9 institutions mandated to eradicate corruption. KPK is the longest surviving.

Inside-Out: KPK's Independence Attack
The KPK has experienced many attacks on its independence. From threats to reduce authority, obstruction to justice, terror against officers, to massive black campaigns.

Does revisions to the KPK Law needed?
No, it doesn't.
The new KPK Law has clearly represented the interests of the political elite and oligarchs, not the eradication of corruption.

Why CSOs and Public Support Still Matters
From making some noise on social media to taking on the streets. The community strongly rejects all forms of weakening of the KPK while the Governments and Parliaments pushing their own agendas.
ACAs in Indonesia: Rise and Fall
Construction Timeline: ACAs in Indonesia (1959-2019)

**Bapekan**
1959-1962
Disbanded while investigating allegations of corruption in the construction of sports facilities for ASIAN GAMES 1962.

**Paran**
1959-1962
Paran’s main tasks were to collect official wealth data. However, due to its weak political position, many officials did not report their wealth.

**Budhi Operation**
1963-1964
Disbanded when it began to touch PT. Pertamina after previously successfully imprisoned corruptors and saved significant amounts of state money.

**Kotrara**
1964-1967
The Kotrar became a political vehicle for military members. Improvements in government administration and eradication of corruption are almost untouched.

**TPK**
1967-1970
The Corruption Eradication Team (TPK) formed by Suharto, failed to investigate major cases including Pertamina and Bulog. Disbanded after a massive student demonstration.
Construction Timeline: ACAs in Indonesia (1959-2019)

Komisi Empat
January-July 1970

Instead of supporting the team's findings on the Pertamina corruption case, for no apparent reason, the government dissolved Commission Four.

KPKPN
1999-2002

State Officials Wealth Supervisory (KPKPN) has succeeded in developing an embryo of cultural responsibility related to wealth and conflicts of interest. It merged into the Corruption Eradication Commission in 2002.

TGPTPK
2000

The legality of the team has some issue because its formation is in conflict with Law No. 31/1999 on Eradicating Corruption. The Constitutional Court however dissolved the institution.

KPK
2002-now

The effectiveness of the KPK’s work has met with resistance from various parties. Until now, the KPK has experienced numerous attacks, ranging from physical terror to legislation.

What’s Next?

1. The presence of ACAs in Indonesia has always failed because of the lack of political support.
2. ACA always disbanded when it starts to investigate large cases.
Inside-Outside: KPK's independence attack
The journey of Indonesia’s Corruption Perception Index in 20 years of Post-Reformasi Era

1. The average increase in CPI scores is 1.05 points and continues to be below the global average.

2. The potential for political corruption is getting stronger, shown by the close relationship between politicians and business people.

3. WJP-ROL, WEF stagnate; Varieties of Democracy is down.
CORRUPTORS FIGHT BACK

THREATS AND TERROR
- Bomb terror
- Physical attacks and intimidation
- Seizure and destruction of evidence

CRIMINALIZATION OF LEADERS AND OFFICERS
- Determination of the suspect by the Police
- Police reporting and arrest
- Allegations of radicalism in the KPK

REGULATORY WEAKENING
- KPK's budget rejection
- Revision of the KPK Law and the Criminal Code
- DPR questionnaire rights

PROBLEMATIC LEADERS SELECTION
- Choose a selection team that is full of conflicts of interest
- Pass the problematic KPK leader candidate
Poor Culture of Private Sector Integrity

- Employers lose business opportunities because their competitors pay bribes (18%)
- The company considers corruption as not a priority (62%)
- Corruption cases handled by the KPK involve businessmen (80%)
- Entrepreneurs consider corruption as a habit (54%)

- Employers consider the convicted corruption is not strictly punished (46%)
- Business people who knows the Corruption Act (47%)
- Entrepreneurs who know the National Strategy for Anti-Corruption (34%)

Source
Indonesian Corruption Perception Index 2017 (Transparency International Indonesia) & Anti Corruption Clearing House 2018 (Komisi Pemberantasan Korupsi)
Does the revisions to the KPK law needed? No, it doesn't.
## Amended KPK Law: Undermining Anti-Corruption Agendas

<table>
<thead>
<tr>
<th>No.</th>
<th>BEFORE</th>
<th>AFTER</th>
<th>ARTICLES</th>
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</table>
| 1.  | KPK has the **authority** to conduct wiretapping and record conversations | Wiretapping can be carried out **after** obtaining written permission from the Supervisory Board | Article 12 B  
Article 12 C  
Article 37 B  
Article 37 E |
| 2.  | The KPK is **not authorized** to issue a warrant to stop cases | KPK has the **authority to stop cases** that have not been completed within a period of **no more than 2 years** | Article 40 |
| 3.  | The KPK carries out prosecution of corruption that is **independent** and free from the influence of any power | The **prosecution** process must now **coordinate** with the **Attorney General's Office** | Article 12 A |
### Amended KPK Law: Undermining Anti-Corruption Agendas

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| 4.  | KPK has the **authority** to appoint and dismiss its employees **independently** | KPK employees are members of the **ASN Employee Professional Corps**. The appointment of **investigators** must be from the **inspectors**, **prosecutors**, and **ASN employed**, whereas **investigators** must only be from the **police** | Article 1 no. 7  
Article 24 no. 2 & 3 |
| 5.  | The KPK has the **authority** to conduct investigations, prosecutions of corrupt acts which have **received attention and concerns the community** | The criteria of "**public attention**" has been **abolished**, and only a minimum of **more than 1 billion** cases should be investigated | Article 12 |
5 IRREGULARITIES IN THE KPK LAW AMENDMENT PROCESS

- KPK and public was not involved in the process
- Attended by only 70 of 560 parliament members
- Completed in rashly way towards the end of the DPR term of office
- Rejected by the public many times
- KPK law amendment is not part of the national legislation program
ANTI-CORRUPTION AGENCIES STRENGTHENING INITIATIVES 2019

THE PERFORMANCE EVALUATION OF INDONESIA’S ANTICORRUPTION AGENCY
ANTI CORRUPTION AGENCIES AROUND THE WORLD

+100 number of ACAs in the Asia Pacific region

2012 year of the Jakarta Principles’ declaration to accelerate the implementation of UNCAC articles 6 & 36; 'revisit' (2017) has been done & given a 'commentary guidance' (2018)

16 the total principles adopted in The Jakarta Principles; considered as the 'House of Cards'
Findings:
1. The impartiality and operational autonomy of the ACA are often hampered by political intervention.
2. The external oversight mechanism for ACA has not been maximized. Public participation is still low.
3. High amount of reports/complaints but not followed by political commitments, budgets, and human resources.
4. Corruption enforcement skills that have high complexity and transnational dimensions are still inadequate.

Recommendations:
1. The independence of the ACA must be guaranteed, and it must have investigative authority to prosecution.
2. The ACA must be guaranteed to be free from political intervention and partisan interests.
3. Strengthening public oversight and accountability mechanisms for the ACA.
4. Increasing the support of ACA’s budget allocation and organizational capacity.
ACA's Assessment (2019)

NOTABLE FIGURES:

- This biennial measurement shows that the KPK has supporting factors (external and internal) that support it. The biggest threat is in the political commitment of the government.
- Twice these measurements were made, there were no significant developments in the independence factor.
- The 2019 measurement underscores the importance of protecting the KPK's human resources, both in terms of independence and legal protection.
<table>
<thead>
<tr>
<th>NOTABLE CONCERN OF EACH DIMENSIONS</th>
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</thead>
<tbody>
<tr>
<td><strong>Independence &amp; Status</strong></td>
</tr>
<tr>
<td>The low security of tenure of KPK leaders when in office</td>
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<tr>
<td>The high dependence on Police &amp; Attorney staff</td>
</tr>
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<td>There is an alleged inhibition of cases, especially if it relates to other law enforcement institutions</td>
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</tbody>
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### GOOD PRACTICES OF EACH DIMENSIONS

<table>
<thead>
<tr>
<th>Independence &amp; Status</th>
<th>Human Resources &amp; Budget</th>
<th>Accountability &amp; Integrity</th>
<th>Detection, Investigation &amp; Prosecution</th>
<th>Education, Prevention &amp; Outreach</th>
<th>Cooperation &amp; External Relations</th>
</tr>
</thead>
<tbody>
<tr>
<td>The KPK is considered to remain independent in arresting public officials from any background</td>
<td>There is an effort to maintain modern organizational patterns and merit systems</td>
<td>Reporting accountability and response to information</td>
<td>The number of cases handled continues to increase</td>
<td>Establishment of an anti-corruption education center (ACLC)</td>
<td>The trend of the number of SPDP with the National Police and the Attorney General's Office continues to rise</td>
</tr>
<tr>
<td>The focus of the intervention area is in 9 regions</td>
<td>There are efforts to encourage an increase in the number of KPK employees</td>
<td>Responding to external supervision is adequate</td>
<td>Commencement of corporate corruption pursuit</td>
<td>Online communication is considered effective</td>
<td>Responding to non-government parties is adequate</td>
</tr>
<tr>
<td>Actively encouraged the strengthening of the Corruption Law and the KPK Law</td>
<td>Staff stability is maintained</td>
<td>Good reporting handling</td>
<td>Rising of Hand Catch Operation Trend</td>
<td>Responding to National Strategy for Corruption Prevention quite well</td>
<td>Manage international networks, especially between ACAs well</td>
</tr>
</tbody>
</table>
KPK NEEDS LIMITED IMMUNITY RIGHTS

**INDONESIAN OMBUDSMAN**
Article 10 of the Ombudsman Law No. 37 of 2008

**PARLIAMENTS MEMBERS**
Article 56, 224, 290 and 338 of the MD3 Law No. 17 of 2014

**MALAYSIAN ACA**
Article 72 of the Malaysian Anti Corruption Commission Act No. 694 of 2009

**NEW SOUTH WALES ACA**
Article 109 no. 3 of the Independent Commission Against Corruption Act No. 35 of 1988
## “KPK” in the most clean countries

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</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Denmark</td>
<td>88</td>
<td>Public Prosecutor for Serious Economic Crime Ombudsman</td>
<td>N/a</td>
<td>Prevention and prosecution</td>
<td>Independent</td>
</tr>
<tr>
<td>2</td>
<td>New Zealand</td>
<td>87</td>
<td>Serious Fraud Office</td>
<td>1990</td>
<td>Prosecution</td>
<td>Independent</td>
</tr>
<tr>
<td>3</td>
<td>Finlandia</td>
<td>85</td>
<td>Local anti-corruption bodies</td>
<td>2002</td>
<td>Prevention and program supervision</td>
<td>Independent</td>
</tr>
<tr>
<td>3</td>
<td>Singapore</td>
<td>85</td>
<td>Corrupt Practices Investigation Bureau (CPIB)</td>
<td>1952</td>
<td>Prevention and prosecution</td>
<td>Independent</td>
</tr>
<tr>
<td>3</td>
<td>Sweden</td>
<td>85</td>
<td>National Anti-Corruption Unit (NACU)</td>
<td>2003</td>
<td>Prevention and prosecution</td>
<td>Independent</td>
</tr>
<tr>
<td>7</td>
<td>Norwegia</td>
<td>84</td>
<td>The National Authority for Investigation and Prosecution of Economic and Environmental Crime (ØKOKRIM)</td>
<td>1989</td>
<td>Prevention and prosecution</td>
<td>Independent</td>
</tr>
<tr>
<td>8</td>
<td>Belanda</td>
<td>82</td>
<td>Office for the Promotion of Public Sector Integrity (BIOS)</td>
<td>2006</td>
<td>Prevention and mal-administration</td>
<td>Independent</td>
</tr>
<tr>
<td>9</td>
<td>Canada</td>
<td>81</td>
<td>The Unité permanente anticorruption (UPAC)</td>
<td>2011</td>
<td>Prevention and prosecution</td>
<td>Independent</td>
</tr>
<tr>
<td>9</td>
<td>Luxembourg</td>
<td>81</td>
<td>National Anti-Corruption Committee (COPRECO)</td>
<td>N/a</td>
<td>Prevention and prosecution</td>
<td>Independent</td>
</tr>
</tbody>
</table>
### “KPK” in the most corrupt countries

<table>
<thead>
<tr>
<th>Ranks</th>
<th>Countries</th>
<th>CPI Score (2018)</th>
<th>Anti-Corruption Agencies</th>
<th>Establishment</th>
<th>Authorities</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>176</td>
<td>North Korea</td>
<td>14</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>176</td>
<td>Yaman</td>
<td>14</td>
<td>The Supreme National Authority for Combating Corruption (SNACC)</td>
<td>2007</td>
<td>Prevention and prosecution</td>
<td>Independent</td>
</tr>
<tr>
<td>178</td>
<td>South Sudan</td>
<td>13</td>
<td>The South Sudan Anti-corruption Commission (SSACC)</td>
<td>2006</td>
<td>Prevention and prosecution</td>
<td>Independent</td>
</tr>
<tr>
<td>178</td>
<td>Suriah</td>
<td>13</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>180</td>
<td>Somalia</td>
<td>10</td>
<td>Agreed to create ACA by the Parliament by 2019</td>
<td>Prevention and prosecution</td>
<td>Independent</td>
<td></td>
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</tbody>
</table>
Indonesia has only completed 8 of the 32 UNCAC review's Recommendations

From the 2010-2015 review, Indonesia received 32 recommendations in 4 areas: criminalization, law enforcement, extradition, & mutual legal assistance.

Lack of political support

Draft UNCAC recommendation law:
- Revised Corruption Act Bill
- Draft of Asset Seizure Bill
- Revision of the Criminal Procedure Code
- Draft of Extradition Bill
- Draft of Revision of the MLA Act Bill

The government prefers to revise the KPK Law, although it is not the object of the recommendation

In the midst of the urgency to strengthen the articles on corruption eradication, the Government of Indonesia actually reduced the authority of the KPK with the revision of the KPK Law
Why CSOs and Public Support Still Matters
Engaging international supports

File a lawsuit against amended KPK law

Public campaign, mass rally and protest
THANK YOU

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