

The Indonesia's Anti Corruption Strategies: A Gap Analysis to The UNCAC'S Preventive Measurements

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Abstract:

The research purpose is to explore the implementation of anti corruption strategies in Indonesia compared to UNCAC'S preventive measure standards. By using descriptive qualitative research methods, this study sought to analyze Indonesia's corruption eradication strategies compared to the United Nations Convention Against Corruption (UNCAC), with a focus on its preventive measures. The results showed that the implementation of five UNCAC's preventive measures were carried out ineffectively. First, Law Number 19 of 2019 had a negative impact on the independence of Indonesia's anti-corruption agency. Its impaired independence was particularly reflected in ambiguous authority of the KPK's Supervisory Board and the loss of autonomy in human resource management. Second, the merit system on state-apparatus' human resource management was absent. Elected officials had excessive power to intervene the appointment of local/state officials. Third, campaign finance disclosure regulation had significant flaws. Fourth, adequate penalties for asset disclosure regulation violence were either absent or ineffective. Fifth, the regulation on private-to-private corruption, that is written in the UNCAC provisions, was also absent.

Keywords: *Independences, Merit System, Financial Disclosures, Asset Declaration, Private Sector Corruption.*

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I. INTRODUCTION

Corruption has been present for quite a long time. Another scholar even wrote that because humans are basically opportunistic, it is almost inevitable that any authority gives incentives to corrupt behavior (Banfield, 1975) [1]. Khun-Anup's story in "The Eloquent Peasant" showed signs of corruption in the time of Ancient Egypt (El-Saady, 1998) [2]. In one of his poems about a dispute with an official at the time, Khun-Anup accused a judge of receiving bribes in the form of a "portion" of the

property seized from him. At that time the people barely had any definition of corruption. Even now, the definition of corruption varies in several countries. Laws about corruption in Indonesia do not even define the word "corruption". Those laws only state what actions are considered as criminal acts of corruption. But in summary, it seems to have become a consensus that bribery is the widely considered as an act of corruption.

Quite similar things had also happened in the Indonesian archipelago. The Vereniging Oost-

indische Company, a trading company owned by the Heeren Zeventien, collapsed less than two centuries after it was founded due to extraordinary corruption within the organization, which was compounded by financial difficulties due to military operations and company inefficiency (Ricklefs, 2009) [3].

After going through the independence period, Indonesia is still struggling with this kind of problem. Significant corruption cases at the beginning of the New Order Era included allegations of corruption at Pertamina, the Bulog (Indonesia's Logistics Agency), and PN Telekomunikasi. Oce Madril in his dissertation entitled "The Political Law of the President in Combating Corruption in Government" showed eight Presidential Decrees in the era of President Soeharto that favored his cronies and/or family. The Presidential Decree includes Presidential Decree Num. 36 of 1985, Presidential Decree Num. 31 of 1997, Presidential Decree Num. 42 of 1996, and Presidential Decree Num. 1 of 1997 (Saputra, 2018) [4].

The impact of corruption is extremely serious. It does not always mean the loss of public fund or the potential loss of state revenue. Corruption can reduce the quality of democratic processes and good governance. For example, corruption encourages public officials to no longer act for the public interest, but for their own interests. Corruption also worsens the quality of public services and infrastructure and worsens poverty, which in turn decreases the level of public trust in the government (Mapuva, 2014) [5]. In addition, corruption can also aggravate government efforts to collect taxes, especially in developing countries (Bird & Martinez-Vazquez, 2008) [6]. The low tax collectability will affect government's ability to provide basic services to its citizens. Low tax

collectability will also impair country's independence or autonomy because it must depend on debt to finance its programs. In short, corruption is not only creating negative effect on the economic aspects, it's also damaging the social order.

Realizing the damaging effects of corruption, the international community did not remain silent. The United Nations released the United Nations Convention Against Corruption (UNCAC) in 2003. This convention contains a guidance on measures to eradicate corruption. Until 2019, this convention has been ratified by 186 state parties (United Nations Office on Drugs and Crime, 2018) [7]. Indonesia ratified this convention through Law Number 7 of 2006 on Ratification of the 2003 United Nations Convention Against Corruption.

The Indonesian government simultaneously took huge leaps in the fight against corruption at the beginning of the Reformation Era. The government passed Law Number 31 of 1999 on Eradication of Corruption and Law Number 30 of 2002 on Corruption Eradication Commission. The government also passed Law Number 17 of 2003 on State Finances that encouraged transparency and accountability of state finances.

Efforts to eradicate corruption were fruitful in a certain sense. Transparency International recorded a CPI score of 1.9 (on a scale of 10) in 2001. The trend has increased to a score of 3 in 2011, a score of 37 (on a scale of 100) in 2017 and a score of 40 for 2019 [8]. However, the increase in the Corruption Perception Index score actually still left some problems. It was considered not enough, especially compared to other countries surveyed. Indonesia's scores among these countries have always been at the bottom half, as illustrated in Figure 1.

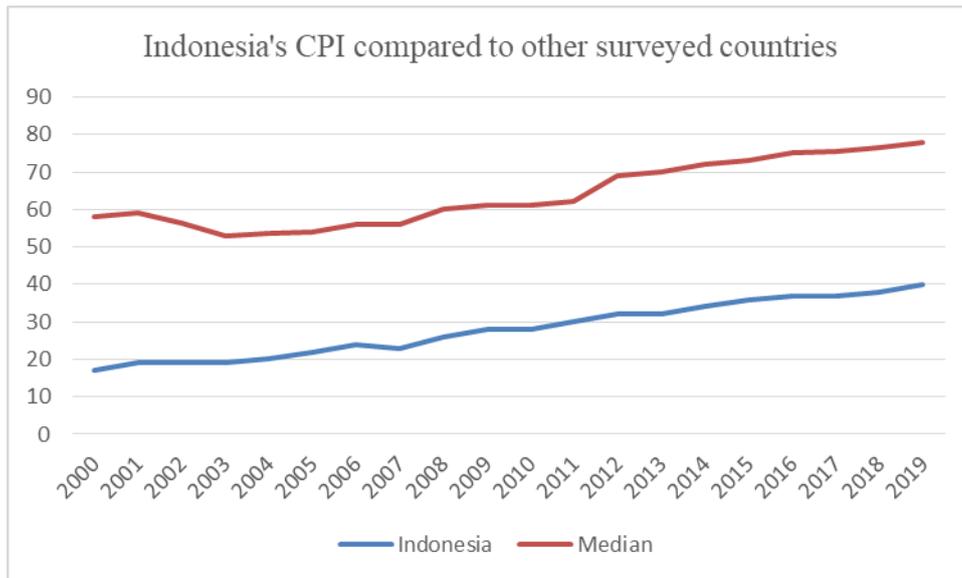


Figure 1: Indonesia's CPI Compared to Countries Surveyed by Transparency International

That data brought us to the next premise: strengthening efforts to eradicate corruption is something that cannot be delayed. But in what way? Is it true that the UNCAC provisions are effective in encouraging corruption eradication efforts in countries that have ratified it? What measures can be categorized as “effective efforts to eradicate corruption”, and which ones are the opposite? These questions are important to answer so that our efforts to eradicate corruption are focused on sectors that are significantly effective in reducing corrupt behavior.

Problems discussed in this study found its momentum in the discourse regarding Amendment of the Law on the Corruption Eradication Commission. Some considered this amendment to strengthen the corruption eradication institutions, while others considered the opposite. Since it is impossible for the two opposing statements to have the same level of truth, this study was expected to answer those discourses.

This study aimed to identify room for improvement of the Indonesia's effort in eradicating corruption based on UNCAC's provisions. The convention was assumed to be the best practice to eradicate corruption, given that it has been accepted by

almost all member of the UN as a framework for eradicating corruption.

II. LITERATURE REVIEW

Gap Analysis

Gap analysis is a technique used to identify differences between actual conditions and the reference or ideal conditions. The concept of benchmarking is to make other organization's efforts as an ideal measure, and to measure the subject of assessment based on that efforts (Marra, Di Biccari, Lazoi, & Corallo, 2018). [9]. This technique is often regarded as one of the most complete and accurate techniques in the benchmarking process (Anand & Kodali, 2008). [10]. The benchmarking means a systematic comparison with other organizations in order to collect ideas that can help organizations take the right steps to improve their performance (EFQM, 2014). [11].

EFQM groups benchmarking process in eight categories. Those are strategic benchmarking, performance benchmarking, product/service benchmarking, process benchmarking, functional benchmarking, internal benchmarking, external

benchmarking, and international benchmarking. Those categories basically have no clear boundaries. What distinguish that eight categories

are the object of comparison. EFQM's benchmarking method is divided in four steps, as illustrated in Figure 3.

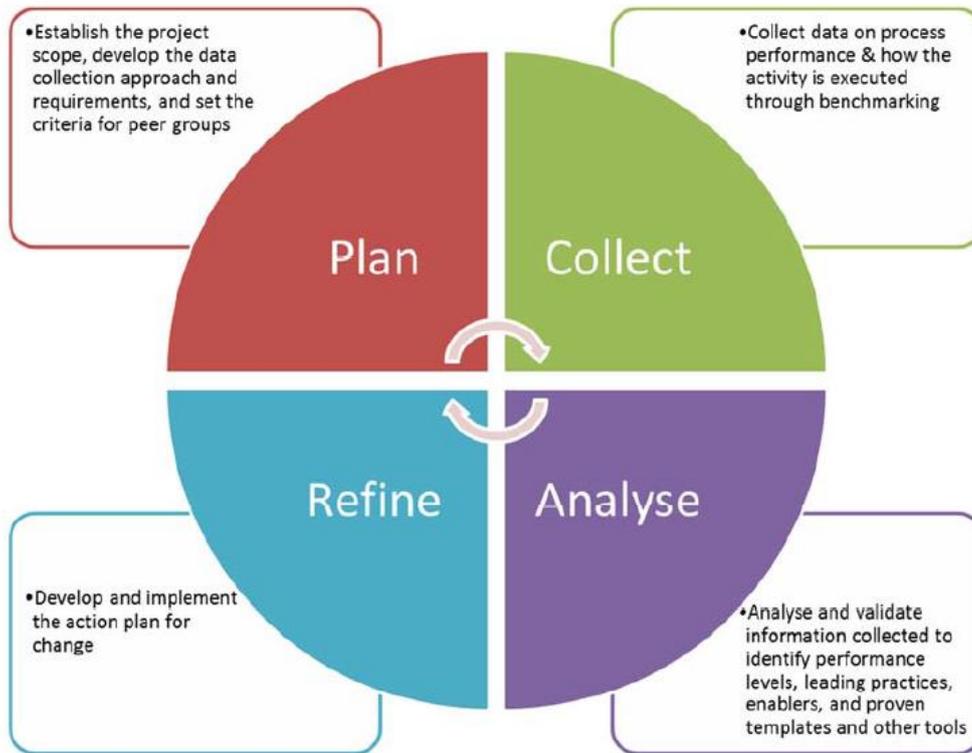


Figure 2: EFQM Benchmarking Steps

United Nations Convention Against Corruption (UNCAC)

United Nations Convention Against Corruption was signed by the UN General Assembly at October 31, 2003. In his remarks, Secretary General Kofi Annan mentioned the background of this convention: collective awareness of the damaging effects of corruption. Corruption hurts people, especially the poor, by depriving them to enjoy the country's development to alleviate them from poverty, reduce the government ability to provide basic services, increase inequality, and inhibit

economic growth (United Nations Office on Drugs and Crime, 2003).[12]

Given corruption's cross-border nature, international cooperation is absolutely needed to eradicate this despicable act. This convention contains a framework for eradicating corruption that is consisting of eight chapters. One of those chapters is about the preventive measures. The preventive measures of UNCAC, as the focus of this study, will be explained in the following description (Hechler, Huter, & Scaturro, 2019). [13]

Table 1: Topics Covered in UNCAC Preventive Measures

Chapter	Topics Covered
Preventive Measures	<p>This chapter generally discusses what steps need to be taken to prevent corruption. These steps are summarized as follows:</p> <ul style="list-style-type: none"> • Have an independent anticorruption body. (Article 6) (M) • Enhance transparency, efficiency, and the use of objective criteria in the recruitment, hiring, retention, promotion, and retirement of public

	<p>officials. (Article 7.1) (NM)</p> <ul style="list-style-type: none"> • Enhance transparency in the funding of electoral campaigns and political parties. (Article 7.3) (NM) • Apply codes of conduct to the performance of public functions. (Article 8.2) (NM) • Establish systems and measures aimed at facilitating the reporting of corruption. (Article 8.4) (NM) • Promote the establishment of asset declaration system for public officials regarding their private interests. (Article 8.5) (NM) • Establish appropriate public procurement and public finance management system based on transparency, competition, and objective criteria. (Article 9) (M) • Enhance transparency in public administration. (Article 10) • Strengthen integrity among judiciary and prosecution service members. (Article 11) (M) • Enhance ethics, integrity, and transparency among private entities. (Article 12) (M) • Promote active participation of civil society and nongovernmental organizations in the prevention of and fight against corruption. (M) (Article 13) • Establish regulatory and supervisory regimes to deter and detect money laundering. (M). (Article 14) <p>*(M) Mandatory; (NM) Non-Mandatory</p>
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The Conference of State Parties UNCAC provide a self-assessment checklist regarding the implementation of these provisions in its state parties. The checklist will then be peer reviewed by fellow UNCAC state parties. The review process produces a country report and executive summary document that contains achievements and recommendations for its state parties.\

We used the self-assesment checklist to analyze deeper about how Indonesia improves its efforts to eradicate corruption through its compliance with the UNCAC convention. Questions in interviews will also be based on UNCAC’s provisions as mentioned in those reports: self-assessment checklist, country report, and executive summary.

UNCAC has some criticism. One of them is about its self-executing nature (Argadona, 2007) [14]. If a country ratifies a convention, it will take more time until the convention is effective in its state parties. The country must first go through a legislative process in accordance with its legal system. Indonesia, for example, adopted UNCAC as part of the Indonesian legal system through Law Number 7

of 2006, almost three years after the convention was signed in 2003. This convention also does not have a mechanism that is considered effective enough to encourage its state parties to immediately implement its provisions. One country also cannot compel the conventions to other countries, even though the proceeds of corruption in that country circulate in fellow state parties.

Article 4.1 UNCAC states, “State Parties shall carry out their obligations under this Convention in a manner consistent with the principles fo sovereign equality and territorial integrity of States and that of non-intervention in the domestic affairs of other States.” Article 4.2 states, “Nothing in this Convention shall entitle a State Party to undertake in the territory of another State the exercise of jurisdiction and performance of functions that are reserved exclusively for the authorities of that State Party by its domestic law.” (United Nations Office on Drugs and Crime, 2003)

We can conclude that ratification is a nation’s statement of commitment to adopt the convention into the state party’s legal systems. That statement

of commitment, unfortunately, is non-binding. A state party may meet the UNCAC provisions in one article but does the otherwise in several other articles.

Previous Studies

There are several previous studies that address anti corruption strategies. Those studies include:

1. Corruption Assessment and Compliance UNCAC 2003 in Indonesian Law (Indonesia Corruption Watch, 2008) [15]. The report, presented at the 2nd Conference of State Party in Bali, in general, would provide an evaluation of efforts to eradicate corruption in Indonesia. This report discussed the state of corruption in Indonesia, the performance of law enforcement officials in corruption cases, anti-corruption programs and policies in Indonesia, and the evaluation of Indonesia's compliance with UNCAC provisions. Those evaluation of compliance was also focused on Chapter III: Criminalization and Law Enforcement.
2. The United Nations Convention Against Corruption and Its Impact on International Companies (Argadona, 2007). This study explained what normative steps to take by both governments and international companies in response to the UNCAC. Argadona, among others, explained the opportunity to implement this convention as a moral standard for the business environment. The conclusion is as follows. (1) The government needs to strengthen fight against corruption by stramlining regulations, minimizing discretionary authority, increasing transparency, and so on. (2) The international community need to push government of any nations that have not ratified UNCAC. (3) The UN should provide support/assistance needed for governments around the world to adopt this convention.
3. Assessing the Relevancy and Efficacy of the United Nations Convention Against

Corruption(Brunelle-Qureshi 2011) [16]. This article explained the challenges of compliance to UNCAC. Those challenges were direct and indirect. The direct challenges were related to the use of words in conventions, clarity of sanctions, and monitoring mechanisms. The indirect challenges were related to the difficulties in implementing good governance and prosecuting corruption. This article concluded that UNCAC still has challenges or shortcomings that threaten its effectiveness to be implemented in its state parties, especially considering the effectiveness of UNCAC is highly dependent on the legislation process in these state parties.

4. Anti corruption agencies: between empowering and irrelevance (Sousa, 2010) [17]. This article concluded that the requirements to empower the anti corruption agency consist of independence, inter-institutional cooperation and networking, recruitment and specialisation, wide competence and special powers, the role of reseach, and durability.
5. The effectiveness of asset declaration to prevent corruption (Al Morad, Noor, & Ayub, 2016) (Gokcekus & Mukherjee, 2006) [18] [19]. These articles debated the effectiveness of asset declaration to prevent corruption.
6. Public procurement dan private to private sector corruption (Argandona, 2003) (Lindskog, Brege, & Brehmer, 2013) [20] [21]. These articles discussed the corruption in the process of procurement and private to private corruption as well

III. METHOD

Qualitative research is a research used to examine some objects on its natural condition, where researchers are key instruments. This method is

used if the researcher wants to obtain complete, valid, reliable, and objective data and information. (Sugiyono, 2012) [22]. This method was chosen in this research because it could help researchers in answering the problem expressed before. This research was conducted with descriptive approach. Descriptive research is research that aims to "paint a picture" using words or numbers to provide a profile and classification to answer what, why, where, and how (Neuman, 2014) [23]. This research was conducted with a qualitative-verification analysis approach. Researchers rule out the role of theory even though it is still important. One of these qualitative-verification design formats can be found in evaluative research (Bungin, 2010) [24]. We assumed that descriptive qualitative is very similar to evaluative research, considering that one of the objectives of this study is to explain the gap between the UNCAC convention and the laws and regulations related to corruption eradication in Indonesia.

Data collection was conducted in two ways namely literatures review and interviewees. Data collection through literature review was conducted by reading and understanding various sources of academic literature. The reading source mainly comes from international agreements, laws and regulations about corruption, along with academic texts, database of international corruption monitoring

institutions, books, and previous publications to build understanding of the issues being discussed.

Interviewees and triangulation used in this research was conducted by combining multiple observers/interviewees. They were:

1. Indonesia Corruption Eradication Commission (KPK) as purposive sampling, considering the Commission is the focal point of Indonesia's effort in eradicating corruption.
 - a. Staff at the Directorate of Fostering Networks Between Commissions and Institutions (PJKAKI)
 - b. Staff at the Legal Bureau
 - c. Staff at the Directorate of Asset Declaration
2. Indonesia Ombudsman as purposive sampling, considering Ombudsman field of work, which is maladministration, are related to corruption eradication efforts.
 - a. Member of Ombudsman RI
 - b. Ombudsman's Assistant on Resolution and Monitoring
3. Former Advisor of the Commission

Details of interviewee can be summarized through the following table 1:

Table 2 Details of interviewee

Identity	Position/Office	Questions
TA – Source 1	Former Advisor of the Commission	Chapter I-X
DM – Source 2	Staff at the Directorate PJKAKI, KPK	Chapter I-IV, VI-X
MM – Source 3	Staff at the Directorate PJKAKI, KPK	Chapter I-IV, VI-X
JS – Source 4	Staff at the Legal Bureau, KPK	Chapter I-IV, VI-X
Su – Source 5	Staff at the Directorate of Asset Declaration	Chapter V
AP – Source 6	Staff at the Directorate of Asset Declaration	Chapter V
NR – Source 7	Member of Ombudsman RI	Chapter I-V
AC – Source 8	Ombudsman's Assistant on Resolution and Monitoring	Chapter I-V

The discussion will be presented in the five chapters: ACA Independence, Civil State Apparatus Management, Campaign Finance Disclosures,

IV. RESULT AND DISCUSSION

Public Officials' Asset Declaration, Corruption in Private Entities.

The Independence of Anti Corruption Agency

We use the Jakarta Statements on Principles for Anti-Corruption Agencies' criteria to analyze the anticorruption body's independence. The Jakarta Statements is a brief guidance to promote and strengthen the independence and effectiveness of anti corruption agencies. It serves as an explanation of Article 6 of UNCAC that require the establishment of an independent anticorruption body to prevent corruption. Moreover, (Sousa, 2010) claimed that independence refers to the capacity to carry out its mission without political interference, that is, operational autonomy and it does not mean free will or absence of reporting or external control.

We conducted in-depth interviews to analyze institutional independence of KPK regarding its new law. The result can be summarized as follows.

First Problem: Indonesia Corruption Eradication Commission's Position on Executive Branch

As stated by the informants, the structural position of KPK in the executive branch hold some problems about its independence. There is, for example, some risks of prosecution ineffectiveness on corruption cases involving officials or institutions from the fellow executive branch. That risk is mainly present through unequal relations between KPK and the potential alleged offender in the executive branch. It is feared that such a relationship may someday allow interventions from various parties in the prosecution process.

The worst-case scenario, among others, occurs when KPK wanted to investigate alleged corruption cases involving officials or corporations that have close relations with the President's inner circle. KPK's position in the executive branch, accompanied by the Supervisory Board which also reports to the President, has the potential to prevent its employees from effectively investigating a corruption case. Even worse, this gesture gives a

signal to the international community, either investors, foreign governments, or international organizations, that there are parties who are not in the equal position regarding alleged case of corruption. At some point, it can damage a healthy competition climate and worsening the Indonesian economy as a whole.

In addition, the explanation of Law Number 19 of 2019 does not seem to care about the effectiveness and independence of the anti-corruption body as the main consideration. This structural change was made "so that the position of the Corruption Eradication Commission in the Indonesian constitutional system becomes clear". Through this clarity, it is expected to "put the Corruption Eradication Commission as a unit of government agencies that, together with the Police and/or Public Prosecution Office, make an integrated and structured effort in preventing and eradicating corruption". Considering the last sentence, it is quite clear that the KPK is indeed not meant to be independent, as required by the UNCAC.

On the other hand, Jon ST Quah stated that "independence from police and political control" is one of the preconditioning factors for effective anti-corruption bodies in various countries (Febari, 2015) [25]. In this case, KPK's law enforcer can only come from the Attorney General's Office, the National Police, and other government agency employees. Although there are no Jakarta Statements criteria that are textually violated, through discussion in the several paragraphs above, it can be understood that the change in the position in the executive branch is not in accordance with the "undue influence" criteria written in Article 6 of UNCAC. KPK, at some point, is feared to have failed to carry out its duties properly due to unequal relations and the risk of intervention from the other parties as mentioned before.

A unique example is Brazil case. The institution tasked to lead anti-corruption coordination is a ministry-level institution whose leadership is appointed by the President. Its authority includes

supervision, coordination, supervision, and ombudsman (AC Authorities, 2012) [26]. Based on the previous discussion, that structure is certainly not in accordance with the principle of independence of anti-corruption institutions based on UNCAC. But this does not prevent Brazil from investigating one of the biggest corruption cases in the country's history through Operation Car Wash.

This operation, in short, was started by the money laundering case investigated by the Brazilian federal police. However, when an examination of Paulo Roberto Costa (Petrobras director responsible for the procurement process) was held, several members of his family wiped out documents related to the case. This activity was detected by the police so that Costa was immediately detained on alleged destruction of evidence. After being released a few months later, he was arrested again on charges related to his secret bank account abroad. In order to obtain status as a house arrest, he volunteered as a collaborator or whistleblower in the money laundering case (De Figueredo, 2016) [27]. Thanks to Costa's statement, until two years later, the Brazilian Federal Prosecutors' Office filed 37 criminal charges against 179 people. In addition, the Supreme Court opened an investigation into 28 suspected criminal acts involving 49 politicians. This investigation later involved former president Luiz Inacio Lula da Silva and incumbent President Dilma Rousseff. It is one of the reasons for Rousseff's resignation from her office. Considering that the police and the prosecutor are not structurally independent of the President, the case was handled by the Supreme Court particularly when some high-level political officials was involved. The Brazilian Supreme Court is capable of investigating cases like this independently because it has an examining magistrate (or investigating judge). Investigating Judge is a judge authorized to conduct an independent investigation and/or investigation before the case is heard in court.

Brazil's success in uncovering this corruption case to the highest political level is often considered to

be mainly due to the independence of the judiciary body, the prosecutor's autonomy, and freedom of the press, all of which are guaranteed by the Brazilian constitution (Fausto, 2017) [28]. The problem of independence is also easier to deal with since the case ensnared both incumbent and opposition politicians.

Second Problem: Anti Corruption Agency's Autonomy

KPK, at some extent, does not have autonomy to determine its organizational structure independently, when ministries and other institutions on the same level in Indonesia have the authority to do so. The organizational structure of the KPK has generally remained the same since the law on anti-corruption institutions was first enacted. Even in Law Number 19 of 2019 that changes the institutional position of KPK, Article 26 that regulates the details of the KPK's organizational structure has not changed a word.

The structure can indeed still be changed through the amendment of the Law on the Corruption Eradication Commission. However, based on Informant 1's statement, some KPK officials considered that there was not yet a good "political atmosphere" to propose changes to the law. This concern was confirmed by the ratification of Law Number 19 of 2019 that was going through without sufficient discussion with KPK.

As discussed in the interview, this rigid organizational structure reduces KPK's ability to respond to new corruption eradication initiatives, both in terms of prevention and enforcement. One of the problems mentioned in the interview is the absence of a special task force that handles coordination and supervision of corruption prevention in Indonesia. As a result, KPK's resources in carrying out its coordination and supervision functions are less than optimal. The KPK leadership has so far arranged a non-permanent task force to carry out this function. However, this step is still considered to be less than

optimal when compared to a new structure with more focused resources.

Informant 1 compared the authority to determine this organizational structure with the authority held by other ministries. Changes in the ministerial organization can be made through a ministerial decree after going through a review by the Ministry of Administrative and Bureaucratic Reform. But this does not apply to the KPK, that are in the same executive branch as those ministries, under the President.

As the First Problem, this Second Problem identified from interviews is textually not related to the criteria in the Jakarta Statements. But the organizational structure, as discussed in First Problem, apparently still has some connection with the problem of institutional independence.

According to Informant 7, KPK's lack of authority in determining the structure of its organization is one sign that this institution is not independent. She mentioned the ratification of Law Number 19 of 2019 that did not even go through a process of discussion with KPK leadership. The lack of authority to determine the organizational structure independently, according to her, will make it easier for parties at the highest political level to influence the performance of the KPK in preventing and carrying out criminal acts of corruption. These parties, for example, can easily set rules that reduce the authority or role of the KPK in efforts to eradicate corruption in Indonesia.

Third Problem: Financial Autonomy

KPK is required to plan its budget in the DIPA format (Daftar Isian Pelaksanaan Anggaran) like any other government agencies using the state budget. This, according to Informant 7, has the potential to cause problems on two things. First, it reduces the independence of the KPK in determining which programs that need priority. The yearly budget and work plan ultimately depends on budget discussions at the Ministry of Finance and the House of Representatives. Those discussions, for example, may reduce the budget that is

considered important on corruption eradication efforts. Secondly, it may undermine the strategic plan to eradicate corruption, especially related to confidential matters.

Informant 7 proposed a block grant budget management model. On this model, KPK only needs to submit a Work Plan document, outcomes/output target, and budget requirements in general (not in detailed manner required by DIPA). Performance assessment will be based on the quality of outputs that have been previously planned.

However, since Informant 7 did not explain how this model provide some financial control and given the issue of accountability and budget transparency is still an important issue for public financial management in Indonesia, we consider this proposal cannot be easily implemented in Indonesia.

Fourth Problem: Supervisory Board

The emergence of the Supervisory Board within KPK raises a new problem of independence at least because of two things. First, the Supervisory Board is appointed and dismissed by the President. Second, the Board is not solely in charge as a supervisory body, but also has the authority to be involved into the law enforcement process previously owned by the KPK Commissioners. This authority is particularly related to giving (or not giving) permission for wiretapping, search, and seizure. Considering that authority, we think that it is safe to say that the Board has quite significant amount of power and influence within KPK's prosecution mechanism. At the same time, there is no single regulation that require any kind of inspection or oversight in case of the presence of alleged irregularities committed by members of the Board. This is also one of the points of the KPK's criticism of this new law.

We assume that the way in which a public official is appointed and dismissed can reflect the interests represented by that public official, especially if the recruitment/appointment process is conducted

without proper checks and balances. In this case, considering the member of Supervisory Board is appointed and dismissed by the Presiden himself, we can conclude that the Board more or less represents President's interests.

We believe that the independence of KPK in carrying out its duties is impaired by this new organization. However, the research team and the informants agreed that no institution can run with too much authority. All public institutions must operate in an accountable and transparent manner. To do so, policy makers can actually encourage the effectiveness of oversight from existing mechanisms and institutions.

Internal oversight can be carried out through the Internal Compliance Unit of the institution. Informant 1 believes that, based on his own empirical experience, this kind of oversight can actually have a quite positive effect in preventing irregularities as long as its independent process remains intact.

On the other hand, external supervision can be done through an external audit institution (Supreme Audit Board or other authorized institutions). If the BPK is authorized to conduct financial and performance audits, other institutions are assigned to examine KPK's compliance to applicable laws and regulations in carrying out the prevention and enforcement mechanism.

Fifth and Sixth Problem –KPK's autonomy on its human resources management

UNCAC and the Jakarta Statements encourage the anti-corruption institution's autonomy to perform its employee management independently based on clear and transparent criteria. Furthermore, (Sousa, 2010) concluded that autonomy in recruitment and specialisation of human resources will empower the anti corruption agency, since the fight against corruption requires an integrated, multi-disciplinary and informed strategy. However, Law Number 19 of 2019 actually moves in the opposite direction. This law assigns all KPK employees as state civil apparatus. It also requires that KPK's prosecution

officers only come from the National Police Investigators or Civil Servant Investigators.

That is totally different with the previous Government Regulation No. 63 of 2005 on the Corruption Eradication Commission's Human Resources Management System. This regulation does not specifically require any prosecution officer's candidate to have certain employment status. It only regulates that "competencies and other requirements are set by the Commission". It implies that the recruitment requirement was the complete authority of the KPK leadership. Because of that, this institution had more flexibility and more independence in recruiting candidates.

As the consequences of the new law, there are two human resource management procedures that is may be carried out. First, KPK will be shifting the status of existing Investigators to Civil Servant Investigators. Secondly, KPK will close its independent recruitment and only recruits its prosecution officers either from the National Police, the Prosecutors Office, or other government agencies.

It raises at least two potential problems. First, Law Number 19 on 2019 regulates the process of inpassing (transition of a civil servant position) through coordination with the Attorney General Office and/or the National Police. Another provision in that law confirms this: KPK employees are members of the Republic of Indonesia's Civil Servant Corps (known as Korpri). According to Source 1, both the coordinator and supervisory body of the Investigators is the National Police (Article 7 of Law No. 8 of 1981 on Criminal Procedure Law). It means that one of the Investigator's appointment criteria is determined by other institutions that might be investigated by the Corruption Eradication Commission, as was the case with various corruption cases in the past. This reduces the credibility of the inpassing process, and it is feared that it will affect the independence of the investigators appointed through the process.

Secondly, as explained earlier, the recruitment of Investigators from other law enforcement agencies presents a conflict of interest when the Investigators are tasked with handling cases involving their parent institutions. The fact that the employee is still an organic employee of the institution has the potential to influence the decisions he makes. Alleged destruction of evidence of a corruption case allegedly involving officials of one law enforcement agency by Investigators from the law enforcement agency, as reported at the end of 2018, reinforces this concern.

We should also consider concerns of some KPK employees represented by Source 5 and Source 6 regarding changes in its egalitarian culture. Egalitarian culture as a means of control has so far been facilitated through the KPK Workers Union set out by Government Regulation Number 63 of 2005. The Workers Union, among others, aim to "ensure a harmonious and responsible employment relationship among employees and between employees and the Commission". Technically, the Workers Union was formed to accommodate and convey aspirations to the of the Commission leadership. This culture, according to Source 5, allows KPK employees to voice their aspirations as well as a means of control over the leadership's policies that are considered inappropriate.

However, considering that Law Number 19 of 2019 regulates that KPK employees are state civil apparatus, we can conclude that KPK employees are no longer members of the Workers Union. They will most likely be members of the Indonesian Civil Servant Corps (Korpri). Presidential Decree Number 24 of 2010 on Ratification of the Korpri Statutes states that Korpri members are Ordinary Members, Extraordinary Members, and Honorary Members. A part of the Ordinary Members, among others, is the State Civil Apparatus. The same regulation also states that Korpri is the only forum for gathering all employees of the Republic of Indonesia.

One of the researchers of this study has been a State Civil Apparatus, as well as Korpri members, for almost six years. Based on his experience, we assume that Korpri is not effective enough in functioning as a means of controlling policy makers. It is because Korpri is not made for this purpose. There is not a single statement of vision, mission, or functions statements of the Korpri Statute which mentions the vision of being a means of employee control over the policies of its leadership. The closest mission and function statement of Korpri to this discussion is to encourage employees in "carrying out good governance tasks", but there is no further, detailed explanation.

Seventh Problem: Conflict of Interest Criteria

This section discusses the conflict of interest criteria that should have required in appointing public officials, especially if the institution has some urgency to maintain its independence to carry out their duties effectively, such as the KPK, Ombudsman, and BPK. During the interview, the research team asked informants about the importance of criteria related to conflicts of interest in the election of KPK leaders. All informants agreed that the inclusion of the criteria is very important in ensuring the independence of the anti-corruption agency.

Source 1, for example, states that each government institution, not only KPK, needs to include detailed guidelines that explain what conditions are categorized as conflicts of interest. So far, provisions about conflicts of interest prevention have been included in the Code of Ethics for quite a number of government agencies. However, there is no further, detailed explanation regarding any action, or the extent of a condition, that can be categorized as a conflict of interest.

The Ministry of Finance, for example, signed the Minister of Finance Regulation Number 190 / PMK.01 / 2018 on the Code of Ethics and the Code of Conduct of Civil Servants in the Ministry of Finance. The word "conflict of interest" is only

mentioned twice, those are "avoiding conflicts of interests of individuals or groups" and also "does not meet those who are potential in causing a conflict of interest" to explain its Code of Ethics. There is no any information related to what conditions, or to what extent, a person is exposed to a conflict of interest. The clarity is no doubt necessary to avoid any misunderstanding that will only cause uncertainty.

The same goes to the KPK Commissioner criteria. Existing criteria related to conflicts of interest are as follows.

1. Not being a member of political party
2. Does not hold any other public/private position while being a KPK Commissioner

It is important to note that the requirements only states "does not hold any other position while being a Commissioner". It means that the commissioner is only required to temporarily relinquish his/her position at their parent institution. The concern is: Considering that the KPK leadership is still registered as an employee of his parent institution, when they prosecute alleged corruption case involving officials from their parent institution, are they exposed to conflicts of interest?

Considering the Jakarta Statements states "ACA heads shall be appointed through a process that ensures his or her apolitical stance, impartiality, neutrality, integrity, and competence", we can conclude that the focus of improvement is not only on its leadership conflict of interest problem, but also on its appointment mechanism. Informant 1 indicated this when discussing the risk of conflict of interest involving several members of the Selection Committee of KPK Commissioner. He considered them as allegedly not independent considering their position in other law enforcement agencies. Those positions are feared to have failed to guarantee the apolitical position, impartiality, and neutrality of the elected candidates.

The problem of conflict of interest is closely related to the problem of independence. Failure to ensure public officials' position from conflict of interest

has the potential to impair their independence in carrying out his duties. Failure to ensure public official's independence means failure to meet independence criteria in the UNCAC and the Jakarta Statements.

Civil State Apparatus Management

The government passed Law Number 5 of 2014 on Civil State Apparatus to enhance transparency, efficiency, and the use of objective criteria in civil state apparatus management. It brings some significant improvement like:

1. Performance-based remuneration scheme.
2. Employee recruitment based on competence requirement and workload analysis.
3. The use of Merit System as a basis of HR management, particularly in appointing public officials.

This robust state apparatus management principle is in line with Article 7.1 of UNCAC that states: Each State Party shall ... endeavour to adopt, maintain, and strengthen systems for the recruitment, hiring, retention, promotion, and retirement of civil servants and, where appropriate, other non-elected public officials.

The UNCAC gives more explanation in the following articles. Those HR management shall:

1. Based on principle of efficiency, transparency, and objective criteria like performance, equality, and aptitude.
2. Use adequate procedures in recruiting and training its personnel for public office that is considered susceptible to corruption.
3. Give decent remuneration.
4. Carry out education and training programs for the employee, especially to increase awareness of the risks of corruption.

Gap analysis related to Civil State Apparatus Management in Indonesia based on UNCAC can be summarized in the following table. Any information about Indonesia's compliance on provisions of UNCAC are based on the

Implementation Review Group's Executive Summary document.

Table 3 Gap Analysis on Civil State Apparatus Management

UNCAC provisions	Notes
Adopt, maintain, and strengthen HR management systems based on principles of efficiency, transparency, and objective criteria (Article 7)	Compliant (p. 3-4) Notes: Law Number 5 of 2014 states that Civil State Apparatus management is based on Merit System, that is supervised by the Civil State Apparatus Commission. There were bribery/corruption cases during 2018 related to public office's position, even though some procedures regarding high-ranking official's appointment were made mandatory.
Creating a system that allows a corruption case to be reported by the civil servant to the anti corruption authority (Article 8.4)	Compliant (p. 4) Notes: The implementation is considered not effective. It is because some public institutions are considered not ready to prosecute any complaint regarding alleged bribe or corruption cases.

Based on the gap analysis above, we can conclude that Indonesia has normatively stated that Civil State Apparatus management is based on a merit system. Indonesia also has procedures or mechanism to supervise the implementation of the merit system at various government agencies. However, there is an important note regarding the bribery case on certain public office position that emerged during 2018-2019, which reflects the absence of a merit system at those government agencies.

Something similar happened to the whistleblowing system (as required by Article 8.4 of UNCAC). Indonesia already has a law and regulation on (1) public service complaints, especially through lapor.go.id and; (2) justice collaborator cases.

The discussion in this section will be divided into two parts: Civil State Apparatus Management and the Whistleblowing System.

Civil State Apparatus Management

We identified some problems based on our interview with our informants. Those problems can be summarized as follows.

1. Requirements of public officials appointment based on Merit System, as stated on Law Number 5 of 2014, has not always been fulfilled.
2. There is an excessive authority held by elected officials in local governments in employee appointment of public office.
3. Civil State Apparatus Commission does not work in a proactive manner.

Those points can be explained in the following passage.

Requirements of public officials' appointment

Informant 7 stated that the Ombudsman received a number of complaints related to government agencies, especially local governments, which did not meet various requirements for public officials appointment in a decent manner. For example, there were reports of alleged bribery for certain positions appointment such as head of subdistrict or school principal.

Informant 7 stated that there were two possible reasons for this case. First, there is no analysis regarding its competency requirements, workload, and other relevant matters. The competency requirements are expected to limit the leadership's discretion in selecting candidates. In general, there are no clear and transparent criteria related to

appointing officials in government institutions, except in a few agencies. Robert Klitgaard once wrote “corruption formula” which symbolized as $C=M+D-A$. Whatever and wherever the activity is, we tend to find it easier to find corruption when a certain organization or person monopolizes a resource, has discretion to choose who will receive these resources, which carried on in an unaccountable process (Klitgaard, 1998) [29]. The second reason is the absence of transparency in the requirements regarding the public official’s appointment. Requirements announced clearly and transparently will enable control mechanism by fellow candidates and related officials over the appointment process.

Law Number 5 of 2014 on Civil State Apparatus requires specific “open bidding” process in high ranking official’s appointment only. There are no specific provisions regulating the appointment of Administrator or other lower positions. Consequently, it still enables some opportunities for corruption in appointing public officials such as head of subdistrict or school principal, as mentioned earlier.

Excessive authority by the elected officials in appointing its public officials

Informant 1 mentioned that the role of the Staffing Officer (Pejabat Pembina Kepegawaian, or PPK) in the high-ranking officials was still quite large although it has been conducted through an “open bidding” process. The role is played in at least two ways. First, the appointment of a high-ranking official is basically the authority of PPK. A selection committee conducting the “open bidding” process is appointed by PPK. This means that whoever is chosen through the open selection mechanism depends on the preferences of the selection committee members formed by PPK.

Second, in case of local governments, the authority lies with the mayor or regent as PPK. They are elected officials. The election process that usually requires large amount of money will encourage those elected officials to cover campaign costs (as

will be discussed further in the following Campaign Finance Disclosure section). Those elected officials, according to Informant 1, have an interest in securing their illegal interests by appointing their trusted people which cannot be done through a decent selection mechanism.

Civil State Apparatus Commission

Informant 1 mentions that the lack of effective supervision by KASN work caused by two things. First, the law does not specify the strategy for monitoring the implementation of a merit system. Second, there are limited resources. KASN only one office in Jakarta, while the supervisory region are located throughout Indonesia. Therefore, the supervision activities are mostly initiated by KDP who are conducting open selection or by complaints about the irregularities of the selection mechanism.

Whistleblowing System

Informant 1 explained that the whistleblowing system is still not effective in many government institutions because:

1. There are only a handful of educated whistleblower who are able to provide reliable information.
2. There is no political will of policy makers. The basis of the whistleblowing system is the desire to create an accountable and transparent system. If the desire is absent because of certain interests, this system will not work effectively.

Informant 7, on the other hand, did not see ideal mindset on most of the government’s internal control apparatus (abbreviated to APIP in Indonesian) for maladministration or corruption in their work environment. One of her findings is the tendency of APIP not to publicize its audit findings. They tend to resolve those findings behind closed door. According to Informant 8, this was done, among other things, to protect their office’s reputation.

Campaign Finance Disclosure

There are two types of corruption related to political parties: electoral corruption and political corruption. Electoral corruption usually includes money politics, vote-rigging, and so on that occurred during the election process. As for political corruption includes the abuse of power once the candidate is elected (Satria 2019) [30]. These two are basically intertwined. Electoral corruption, which costs a lot of money, encourage elected candidates to obtain funds in an inappropriate way. This situation allows the candidate to trade influence, abuse power, or accept bribes which ultimately compromise state finances and public interests. In summary, electoral corruption provides enough reasons for political candidates to commit political corruption.

Electoral corruption may occur, among others, if the election oversight on campaign finance disclosure is quite loose. The more campaign funds involved, the greater the candidate's motivation for political corruption. The more dominant the role of a group of financiers, the greater the potential for conflicts of interest when the candidates are elected.

These problems are anticipated by Law Number 7 of 2017 on General Elections. This law requires political parties and election candidates report its RKDK (Special Account for Campaign Funds), requires candidates to report three Campaign Finance Financial Reports (Initial Reports, Donation Receipt Reports, and Campaign Funds Revenue and Expenditure Reports) that are audited by public accountants appointed by the General Election Commission, and sets limit for both individual and groups contribution.

These measures are in line with Article 7 UNCAC. The article states that: Each State Party shall also consider taking appropriate legislative and administrative measures, [...] to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties.

Gap analysis related to campaign finance disclosure in Indonesia can be summarized in the following table.

Table 4 Gap Analysis on Campaign Finance Disclosure

UNCAC provisions	Notes
Enhance transparency in the funding of candidatures for elected public office and funding of political parties. (Pasal 7.3)	Compliant (p. 3-4) Notes: Indonesia has already regulated campaign finance disclosure through Law Number 7 of 2017 on General Elections. However, the implementation is considered not effective.

Based on the gap analysis above, we can conclude that Indonesia already has an awareness regarding the relationship between campaign finance and political corruption. However, there are still gaps in these rules that candidates can exploit to engage in electoral and political corruption. The gaps, among others, were (Prasetyo, 2019) [31]:

1. Campaign period. The scope of reporting campaign funds is limited to the campaign period. In fact, there is candidate's "political dowry" expenditure spent before the campaign

period even begins. Consequently, this type of expenditure is not recorded in the Campaign Funds Revenue and Expenditure Report (abbreviated as LPPDK). This type expenditure is important to record because the amount is often greater than the reported campaign expenditure during campaign period.

2. Campaign funding sources. The General Election Law only regulates the limit for individual and group contributions. There is no control mechanism to ensure that all campaign

contributions and spending are donated only through the RKDK and therefore reported in the LKDK. A certain contributor, for example, can contribute in form of campaign props, campaign team logistics, or advertisements in the mass media (not in the form of money through RKDK) without having to go through proper reporting mechanism. In fact, both goods and services used in the framework of the campaign are objects that need to be reported as part of the Campaign Fund.

3. Audit process is considered not comprehensive enough. The auditors have only thirty days to carry out the audit process. The auditor is not responsible to ensure that campaign finance transactions are in accordance with actual activities during the campaign period.

Those gaps clearly reduce the quality and transparency of campaign finance reporting. This is because one of the biggest portions of the cost of nominating a political candidate, namely “political dowry”, fails to be presented in the LPPDK. Without capturing that information, the figures presented in the financial statements will not come near its actual amount.

The failure of LPPDK in recording all revenue and expenditure of the campaign, as well as in presenting the source of those campaign funds used by political candidates, has the potential to enable political corruption. The source of funds that are not disclosed transparently does not give any disincentive to candidates who receive financial support from contributors who expect political corruption in their favor when the candidate is elected.

Informant 8, who had worked as member of a campaign team long before joining the Ombudsman, described the difficulties of reporting campaign funds outlined in the following points.

1. The need for campaign funds for a political office is huge. The campaign funding needs include honorarium payments to witnesses,

procurement campaign props, and as mentioned earlier, political dowry payment.

2. There is no single account created specifically for campaign contribution and its expenditure. Campaign funds flow so fast that both the candidate and his campaign team (including the Treasurer) themselves have difficulty in calculating the actual campaign funds accurately.
3. The treasurer of the actual campaign is often different from the Treasurer who is registered in the official list of the campaign team. The actual treasurer is involved in managing a much larger number of campaign funds. This allows the campaign team to violate campaign finance regulations without being penalized.
4. There is no political will from either the candidates or the government to regulate campaign funds to enhance its transparency.

Informant 1 mentioned that the government could normatively implement efforts to force political candidates to comply. This includes giving serious sanctions, such as disqualification, for violating reporting campaign funds. But according to him, the political process must be dealt with in a realistic way. It is difficult to imagine that there are politicians who initiate laws and regulations that intend to regulate the politicians themselves.

Informant 1 also mentioned that the KPK had conducted a study proposing the government to allocate spending for political parties in the state funds (commonly known as APBN). In return, political candidates are required to report on all APBN funds they have received. The state can also forbid them from receiving other funds from independent sources. We asked Informant 1 about the feasibility of this idea, especially considering the huge amount of APBN funds proposed. Informant 1 stated that this expenditure could be considered as an investment in a country’s political system. A good political system will produce competent people with integrity so that the country can expect good things to come. But to promote a good political system, the state needs to encourage

all elements within it to begin to be honest and transparent about its campaign funds. Informant 1 believed that state expenditure for political parties is a means to accelerate the transparency of the campaign funds.

However, Informant 7 was worried that the state expenditure for political parties would pose a new corruption risk. She argued that each political party and its candidates would be free to collect funds from accountable sources. She proposed improvement in the political party recruitment system, one of which was by implementing a merit system in political candidatures. With clear criteria, as used in discussions related to Civil State Apparatus management above, it is hoped that those nominated by political parties are candidates with a positive track record and experience in serving the community.

Asset Declaration/LHKPN

Asset declaration is considered as a means of preventing corruption (The World Bank, 2012) [32]. This mechanism is expected to allow the public access to their public official's assets. This is

ultimately expected to reduce any public official's intention to commit corruption. Indonesia and many other countries use a self-assessment approach in asset declaration reporting. Informant 1 assumed this approach as a positivistic assumption. Civilized nations are considered their citizens as good citizens until proven otherwise.

Based on its objectives, the World Bank divides the asset declaration system into three types: illicit enrichment, conflict of interest, and dual objectives. The declaration system for illicit enrichment is used to collect information related to changes in wealth compared to the public official's total revenue and expenditure. A declaration system for conflicts of interest is used to provide information related to sources of income, private sector management and ownership structures, and other financial interests. This system helps the government identify and prevent conflicts related to public official's duties. The dual objective declaration system combines the functions of the two previous systems.

Gap analysis related to asset declaration in Indonesia can be summarized in the following table.

Table 5 Gap Analysis on Asset Declaration

UNCAC provisions	Notes
Establish measures and systems requiring public officials to make declarations ... from which conflict of interest may result. (Article 8)	Compliant Note: Punishment for non-compliance with LHKPN reporting (a.l. not reporting or false declaration) are limited to administrative one. False declarations are still possible given the KPK's resources to examine more than three hundred thousand public officials are very limited.

The gap analysis states that Indonesia already has regulations and instruments to accommodate LHKPN reporting. Law Number 28 of 1999 concerning State Administration requires each state administrator to be willing to report his wealth before, during, and after taking office. They are also required to report and declare wealth before and after taking office. To oversee the reporting process of these assets, an audit commission was

appointed, which was tasked with monitoring and clarifying the public official's asset disclosure.

Informant 7 and Informant 8 from the Ombudsman considered that the LHKPN, at some point, had successfully carried out its preventive function. This report is indeed not entirely able to prevent corruption, but at least able to provide a little barrier for any public officials who wants to enrich themselves in illegal ways. When the research team

asked about the opportunity to submit a false declaration, Informant 7 even responded skeptically.

There is indeed some kind of punishment for public officials who are reluctant to comply with LHKPN duty. However, this law only mentions administrative sanctions without further explanation. Interviews with informants confirmed the absence of severe punishment for public officials with false declaration. LHKPN reporting process has other effectiveness issues which can be summarized as follows.

1. KPK's resources to examine LHKPN are quite limited. There are more than three hundred thousand public officials required to report their assets, while there are very few resources examining assets working in the KPK. As a result, not all LHKPN documents can be examined with a proper process as a preventive measure.
2. Informant 1 revealed that almost all public officials involved in corruption cases were compliant in reporting their asset disclosure duty.
3. Informant 1 also revealed that LHKPN has not been used as an instrument for preventing corruption. It has been used only in prosecution process.

Informant 1 stated that asset disclosure duty is required especially because Indonesia still does not have a reliable taxation database. Even in 2019, the number of taxpayers who have tax registry number (known as NPWP in Indonesia) of Individual Taxpayers reached 38.7 million people from 133.56 million workforce in Indonesia (Central Statistics Agency, 2019) [33]. Only 10,66 million of those taxpayers submitted their tax returns. We think it is safe to conclude that tax compliance and taxation database still does not reflect the Indonesia's economic conditions. That drives the government to take other measures to collect asset database of public officials in Indonesia.

If Indonesia were able to use its taxation database for various purposes, such as examining the assets of state administrators, the process of eradicating corruption could be carried out more effectively. The assumption is that every corruptor is also a tax evader. The audit process can be carried out more easily because the Directorate General of Taxes has enough resources in tax auditing activities. It is expected that if a corruptor cannot be charged under the article of corruption by law enforcement officials, they can still be charged through violations of tax laws.

We can conclude that although the regulation and instrument for asset reporting are already in place, such reporting is seen as not yet effective in combating corruption. (Gokcekus & Mukherjee, 2006) (Al Morad, Noor, & Ayub, 2016) [17][18] Suggested that the subject persons whom they are obliged to disclose their properties, content verification and public access can improve the effectiveness of asset declaration to reduce corruption.

Private Sector Corruption

Almost every corruption case in the whole world involves private sector organizations or individuals. Some scholars divide corruption related to the private sector into two types: private-to-public, and private-to-private (Argadona, 2003) [19]. Private-to-public corruption is often defined as a bribe from private individuals or organizations to public officials, while private-to-private corruption is a form of bribery from and to fellow private institutions. Private organizations play a major role particularly in giving bribes to fulfill its own interests. When bribery of public institutions is widely considered to be detrimental to social order, attention to private-to-private corruption has not been so serious at least because of the following points:

1. Corruption in the private sector is considered rare because the economy operates in a relatively efficient market. Because of the

nature of the market, corruption that drives inefficiency is considered very rare.

2. Scholars do not have enough evidence to study private-to-private corruption cases because business entities are assumed to be reluctant to publicize the corruption they commit because they do not want to have any bad reputation about it.

Until now, Indonesia has not yet adopted the provisions related to corruption in the private sector into its legal system.

During this time, business entities from the private sector can only be charged with corruption if they commit bribery or other forms of corruption involving officials in the public sector or involving state finances. However, Law Number 31 of 1999 on Corruption Crimes does not categorize bribes between private entities as part of criminal acts of corruption. The same thing applies to the mechanism of procurement between private agencies involving markup, kickback or commission, as well as other type of corruption. We think it is safe enough to conclude that the anti-corruption law in Indonesia has not taken corruption in the private sector seriously.

Private sector corruption is quite instrumental in shaping the level of corruption in the public sector. Informant 1 and Informant 7 explained that one of the root causes of corruption in Indonesia is the gratification of the private sector to public officials. These gifts, by various parties in the private sector, are still considered prevalent and necessary to establish and maintain good relations with public officials. Both sources considered that bribery to public officials initially occurred not from the request of public officials, but from the habit of giving gratuities to these business entities. Because it continues over time, this is ultimately considered common by both the recipient and the donor. When the practice of gratification is considered normal and becomes a norm, a public official is then compelled to ask for compensation beyond their official income.

All forms of corruption, including in the private sector, will directly or indirectly harm the public interest. The culture of bribery between private sector organizations does not directly harm the public or state finances. But it causes the economy to become inefficient. The public and the government must pay more than they should for products produced with unfair processes. Bribery in private organization's HR management will produce personnel that is not fully committed to fair and clean business practices. Personnels who gets their position through bribery will certainly be permissive to bribes to other parties, including public officials, to achieve short-term interests.

We can also explain the case of bribery through demand and supply logic. If we can stop offering gratuities through good governance practices in private sector, it is hoped that the public official's request of bribes will also be reduced.

The discussion in a few paragraphs above suggests that we may consider the regulations on corruption in the private sector as preventive measures, although this topic is categorized as criminalization and law enforcement in the UNCAC. Therefore, the adoption of UNCAC provisions, specifically related to corruption in the private sector, is still very relevant to prevent and fight corruption in Indonesia.

V. CONCLUSION

1. All discussions related to the independence of anti-corruption institutions show that in general Indonesia already has a legal basis, mechanism, and institutions that are responsible for carrying out the task of eradicating corruption. However, there are problems regarding the effectiveness in implementing the task. In terms of independence, these problems include:
 - a. KPK's organizational change diminish its independence based on UNCAC, current reseach findings, and Jakarta Statements criteria.

- b. Change in employment status has the potential in exposing KPK employees to conflicts of interest.
 - c. The reduced authority of the KPK in terms of organizational and human resource management, and budget autonomy has exposed the risk for intervention in its prosecution process.
 - d. The Supervisory Board authority has the potential to delay any prosecution process. The Board should only function as an oversight body, and not directly involved in prosecution process.
 - e. Guidelines related to conflicts of interest need to be explained more clearly in the Code of Ethics of the State Civil Apparatus and applied to all government agencies. In the case of the KPK, the criteria for conflict of interest need to be included in appointing a selection committee and selecting candidates.
2. Merit System has not been implemented in all government agencies, especially local governments. This shortcoming opens opportunities for corruption in appointing public officials. Moreover, there should be a protected media for civil servant to report a corruption allegation in accordance with the recruitment process.
 3. The absence of a reporting mechanism that guarantees the presentation of all relevant financial information related to campaign funds reduces the effectiveness of campaign finance transparency to prevent political corruption, as stated in UNCAC provisions.
 4. The asset declaration (LHKPN reporting) mechanism has not been effective enough to function as a means of preventing corruption. This is because the applicable laws and regulations do not regulate penalties for violations of public official's LHKPN duty. In addition, public official's asset information should ideally be obtained through a taxation

database to enhance effectiveness of preventive measures of corruption.

5. The private to private sector corruption is an urgency to regulate. This research suggests that The Law Number 31 of 1999 on Corruption Crimes should be revised to regulate the private to private sector corruption.

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