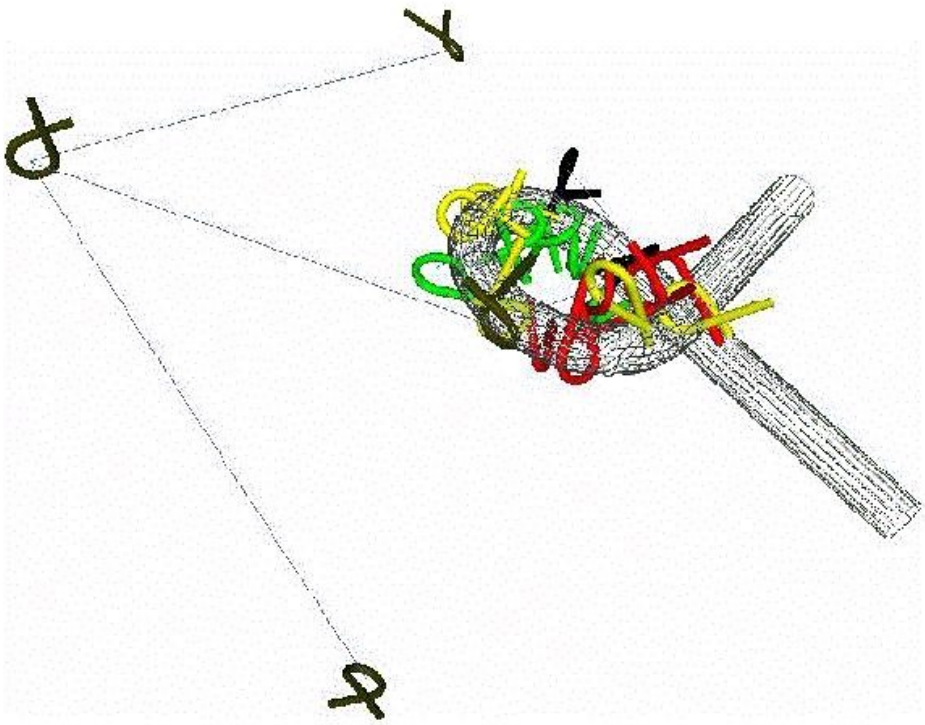
ROADMAP KPK 2007-2011

TOWARDS

MORE EFFECTIVE

CORRUPTION ERADICATION



KPP

Coalition of Court Monitors

ICW
INDONESIA CORRUPTION WATCH

kemitraan
partnership

ICW

KPK ROADMAP 2007-2011
TOWARDS
MORE EFFECTIVE
CORRUPTION ERADICATION

PREPARED BY
ADNAN TOPAN HUSODO
MARCH 2008

CONTRIBUTORS
Hasril Hertanto, Andri Gunawan dan Agus Syahbani (MAPPI), Arsil, Purnomo (LeIP), Fulthoni (ILRC), Nanda (Trafic), Ronald Rofiandri, M. Sholikin (PSHK), Hermawanto (LBH Jakarta), Andri (KRHN), Anung Karyadi (TII), Emerson Yuntho, Febri Diansyah, Abdullah Dahlan (ICW)

INDONESIA CORRUPTION WATCH
COALITION OF COURT MONITORS
SUPPORTED BY PARTNERSHIP

ICW
Jalan Kalibata Timur IV/D No. 6 Jakarta Selatan
Ph. (021) 7901885, 7994015, Fax. (021) 7994005
E-mail: icwmail@indosat.net.id, icwmail@antikorupsi.org
Website: www.antikorupsi.org

LIST OF CONTENTS

Foreword i

1. Chapter I. Background 1
2. Chapter II. Achievement of Corruption Eradication by KPK..... 3
    - Law Enforcement by KPK 2003-2007..... 3
    - Safety Zone of Law Enforcement by..... 5
    - KPK Biggest Cases 6
    - Supervision and Coordination..... 6
3. Chapter III. Corruption Eradication Priorities of KPK 2003-2007..... 7
    - KPK's Three Big Achievements 2003-2007..... 8
4. Chapter IV. Several Issues of KPK 2003-2007..... 8
    - Legal Action Sector..... 11
    - Preventive Action Sector..... 13
    - LHKPN Sector 14
    - Supervision and Coordination..... 15
    - Community Complaints 16
5. Chapter V. Recommendations for KPK 2007-2011..... 18
    - Priority and working strategy aspects 18
    - Institutional aspect 19

Annexes..... 22

- Compilation of Inputs from Public Consultations..... 22
- Problem Chart of KPK..... 42
- Ratings on Relevance of a Menu of Anticorruption Programs..... 45

References 46

ICW's Profile..... 47

Foreword

The publication of Roadmap of KPK of 2007-2011, which was drafted collectively by Coalition of Court Monitors (*Koalisi Pemantau Peradilan,* KPP), aims to provide inputs on several scenarios for KPK in the future particularly in relations to corruption eradication strategy.

The idea of the publication was started from the record of evaluation done by the Indonesia Corruption Watch (ICW) on the performance of corruption eradication efforts by KPK in its first period, which was at that time led by five leadership of KPK, with Taufikurahman Ruki as its chairperson..

The pictures obtained from the evaluation became one of the main elements in the roadmap, apart from other inputs collected through a number of public consultations held by ICW with the support from the Partnership in ten provincial cities in Indonesia.

The publication becomes very important as every effort of corruption eradication needs to be guided by a vision that is precise, strong and right. With a right guideline, we will have much more effective corruption eradication program. Reflecting from the experiences in the past, the results of corruption eradication program were not quite evident as various expected changes never really manifest.

Surveys from several global corruption monitoring institutions such as Transparency International indicate a record that Indonesia is still a fertile land for corrupt practices.

Indonesia's position during the post-reform period, which never moves from among the four most corrupt countries in the world, makes us realize that there has been something wrong in the corruption eradication program that we have. In our analysis, the fact that there is no design strategy of corruption eradication is one of the causes.

We would like to thank the Partnership, particularly *mas* Iman, *mas* Dadang and *mas* Topo Santoso, who provided full support in the writing of this roadmap. Similar appreciation goes to the Leadership of KPK of 2007-2011 that is very open to the inputs presented by various anti-corruption groups, particularly KPP.

Members of KPP, i.e. Emerson, Ronald, Solikhin, Arsil, Purnomo, Hasril, Andri, Firmansyah, Fulthoni, Andre, Anung Karyadi, Arya Nanda and others that I regrettably cannot mention one by one have provided significant contribution in the drafting of this roadmap.

At the end, criticism is a way to lead an idea to perfection. The roadmap surely leaves some flaws; therefore with the inputs from different parties we will make a better one.

Jakarta, March 2008
Adnan Topan Husodo

KPK Roadmap 2007-2011

Chapter I. Rationale

The birth of Corruption Eradication Commission (KPK) was inseparable from the conviction and understanding that corruption is an extraordinary crime.1 It is considered as such since its destruction power has reached the highest level. As an evidence, until today, Indonesia is still trapped in a concerning condition both socio-economically and politically. This can be seen from the high rate of poverty and unemployment, poor human resources index and low quality of democracy.2 Directly or indirectly, they are caused by rampant corruption.3

On the one hand, corruption eradication program through conventional methods have been considered as failing to reduce the high rate of corruption. There is a conviction that in a system where corruption has become endemic, conventional law enforcement will precisely conceal corrupt officials. Conventional agencies that play the role of enforcing law become increasingly incapable to detect and bring into investigation complicated graft cases.4

---

1 In the elucidation of Law No 30 Year 2002 on Corruption Eradication Commission, it is mentioned that "the increase of uncontrolled corruption cases will bring disaster not only to the national economy but also to the general conditions of the nation and state. Expanding and systematic corruption acts constitute a violation of social and economic rights of the society, and because of that corruption act can no longer be categorized as regular crime but instead constitutes an extraordinary crime. The eradication effort can no longer be carried out in an ordinary way, extraordinary methods are deemed necessary."

2 While in 2005 poverty rate in Indonesia was 16%, in 2006 it increased to 17.75%. In 2006 the unemployment rate was also estimated to have increased 2% from 10-21% in 2005. Meanwhile, Human Development Index (HDI) in Indonesia in 2005 was ranked 110 from 177 countries.

SEE: HTTP://WWW.OKEZONE.COM/INDEX2.PHP?OPTION=COM_CONTENT&TASK=VIEW&ID=13853&POP=1&PAGE=0&ITEMID=67)
(http://www.tkpkri.org/id/index.php?option=com_content&task=view&id=109&Itemid=2)
(HTTP://WWW.FREELISTS.ORG/ARCHIVES/PPI/08-2006/MSG00362.HTML)

3 Eric Chetwynd, et.al. formulated a causal relations between corruption and poverty through two approaches, i.e. *economic model* and *governance model*. Based on *economic model,* corruption does not directly lead to poverty, but corruption suppresses economic growth and enlarge gap of income. These two factors contribute directly to poverty. See Chetwynd, et.al. in *Corruption and Poverty: A Review of Recent Literature* (Washington DC: January 2003). An IMF study also provides similar conclusion with regards to connection between corruption and poverty. See Gupta, Sanjeev, et.al. in *Does Corruption Affect Income Inequality and Poverty?* (IMF Working Paper, May 1998),

4 Pope, J. (Editor), *Pengembangan Sistem Integritas Nasional*, (Jakarta: PT Pustaka Utama Grafiti), p. 226.

The description on high graft rate in Indonesia can be seen from researches and surveys conducted regularly by many institutions measuring rate of corruption, both internationally and regionally. Referring to Corruption Perception Index (CPI) of 2006 that covered 163 countries as launched by Transparency International (TI) a while ago, it was apparent that hard works are still much needed to combat corruption in Indonesia.

In this list, Indonesia was ranked seventh as the most corrupt country worldwide along with Azerbaijan, Burundi, Central Africa, Ethiopia, Papua New Guinea, Togo and Zimbabwe. CPI of 2.4 in 2006 was slightly higher than the previous year's figure of 2.2.5

The picture of corruption in Indonesia in 2006 was not different from the following year. The CPI Survey of TI launched in 2007 again placed Indonesia as a country perceived to be very corrupt. Indonesia's CPI rate even decreased into 2.3 in 2007.6

Similar was the result of business easiness survey, conducted regularly by International Finance Corporation (IFC), which placed Indonesia in 135th place in 2007. The figure indicates that the reform initiated by the government in promoting business environment is going very slowly.

In the survey result, it was mentioned that Indonesia only took one significant step of reform, i.e. reduction of time needed to start new business from 151 days into 97 days. In fact there are ten indicators used by IFC in determining the level of easiness in running business in a country within the 176 countries surveyed.7

In smaller scope, according to PERC survey 2006, Indonesia was ranked second as the most corrupt country in Asia, together with Thailand. The year before, Indonesia came as the most corrupt in Asia.8 This improvement of one level indicated that the corruption eradication program is not yet effective.

---

5 http://www.kpk.go.id/modules/news/article.php?storyid=1328

6 Among the 180 countries surveyed by TII, Indonesia was ranked as number 143. CPI has the scale between 1 and 10; the larger the CPI, the cleaner is the country from corruption acts. Most respondents of the CPI survey are businesspeople dealing directly with corrupt bureaucrats.

7 The ten indicators were starting business, dealing with license, employing people, registering property, getting credits, protecting investor, paying tax, international trade, implementing contract, and closing business. See: http://www.freelists.org/archives/ppi/09-2006/msg00083.html

8 http://www.kpk.go.id/modules/news/article.php?storyid=2064

The symptom of the slow improvement of the situation of the country with regards to corruption can also be seen from market perception survey conducted regularly by Bank Indonesia, the Indonesian Central Bank. In the Bank quarterly survey in 2007, it was revealed that among other factors that hindered economic growth according to the market players were corruption and poor law enforcement.9

On the other hand, the indication of practice of state finance violation conducted by public officials (bureaucrats) can be seen in the result of semesterial audit of BPK RI. The findings on indication of violation by BPK RI from 2005 until 1st semester of 2007 show increasing trend, both from the amount of loss as well as the number of cases revealed, as indicated in the table below.

Table 1. Findings on violations, by BPK 2005 to 2007

Year	**Number of (thousand)**	**Value of violation (in billion rupiah)**
Semester I/2007	5,717	8,805.60
Semester II/2006	5,776	14,887.89
Semester I/2006	5,113	7,935.73
Semester II/2005	6,233	7,818.01
Semester I/2005	4,942	4,397.49

Summarized from the report of HAPSEM BPK RI

9 For more details, the result of market perception survey by BI is launched regularly and can be accessed in www.bi.go.id. Quarterly surveys of 2007 are reported in the documents of Market Perception Surveys of BI Quarter 1, 2, 3 and 4.

Chapter II. Achievement of Corruption Eradication by KPK

Corruption Eradication Commission (KPK) is a law enforcement institution that is independent from the influence of any other power and was established on December 29, 2003. This institution has a strong legitimacy as its establishment was based on Law.

To deal with the graft cases, which have been considered as extraordinary crime, KPK is granted an extraordinary authority, one that even larger than what those of the police and attorney office.

According to Law No 31 Year 1999 on Corruption Criminal Act Eradication, as amended by Law no 20 Year 2001, and Law No 30 Year 2002 on KPK, the institution has 5 duties, i.e. conducting coordination, supervision, prevention, monitoring and taking legal action, which includes inquiry, investigation and prosecution.10 The five authorities owned by KPK are expected to be carried out effectively to ensure that corruption eradication program gets maximum outcomes.

A. Law Enforcement by KPK 2003-2007

In evaluating the law enforcement actions undertaken by KPK in their first term of leadership, performance evaluation framework approach is taken by examining several important factors that contribute significantly in the effectiveness of law enforcement. It is very important to evaluate the law enforcement by KPK as graft practices in Indonesia have become very systematic, from public to private areas, and implicate law enforcement officials. The condition is similar to Hong Kong when it established ICAC for the first time in 1974.

Learning from Hong Kong's ICAC, to start eradicating corruption that was very rampant, ICAC used three approaches, i.e. legal action to create deterrent effect, preventive measures and education. To carry out its mission, ICAC performed its functions through three departments, i.e. operations department, which worked on the graft case

10 Article 6 of Law on KPK: Corruption Eradication Commission has the following duties:
a. Coordination with the authorized institutions in corruption eradication
b. Supervision on the authorized institutions in corruption eradication
c. Conduct inquiry, investigation and prosecution on corruption acts
d. Conduct preventive action on corruption acts, and
e. Conduct monitoring on the state government practices.

investigation; graft prevention department, which worked to learn the system and procedures in public sector in order to identify potentials for corruption and provide recommendation to tackle holes that lead to corruption; and public relations department, which worked to organize education to the public to be engaged in corruption eradication.11

Basically, the three approaches were equally important, but ICAC directed 70% of its resources to operations department. The reason was that every successful corruption eradication effort has to start from effective law enforcement on major targets. It was intended to demonstrate to the public the seriousness of the government in eradicating corruption, apart from showing the effectiveness of ICAC itself.12

In the context of whether or not law enforcement is effective, the performance evaluation on KPK legal action was conducted. The following table outlines indicators of effectiveness of law enforcement that was one program of KPK. The indicators would be used to measure the performance of overall law enforcement by KPK.

Table 2. Evaluation Framework of Law Enforcement by KPK

No	Indicator	Description
1.	Degree of graft cases handled	Degree of graft cases refers to three things, i.e. graft perpetrators handled including the executive, legislative and judiciary branches of government, the value of state loss, and attention of the public.13
2.	Priority of cases handled	This indicator include sectors that become priority to handle, number of cases handled, and KPK's choices in handling a graft case.
3.	Effectiveness of execution of legal sentences	This indicator covers three things: i.e. sentence made by corruption court, state asset recovery,

11 Tony Kwok Man-wai, *"Formulating an effective anti-corruption strategy-The experience of Hong Kong-ICAC",* paper with no date. Tony Kwok is an ex Vice Chairperson of ICAC and ex Head of Operations Division of ICAC in charge of repressive measures or law enforcement.

12 Tony Kwok, *Ibid*

13 In the performance indicators of all heads of provincial attorney offices across the country, degree of a case is described as a case with quality and attracting public attention.

		and physical punishment for corruption perpetrators by court with final jurisdiction.
4.	Supervision and coordination	Supervision and coordination function by KPK is measured by the level of effectiveness of graft cases handled by other law enforcers (attorney office and police) and the policy to take over cases the action against which is halted.

The mandate of KPK in law enforcement is to eradicate corruption that implicate state officials, law enforcers, and cases that cause state loss exceeding 1 billion rupiah. Before going further, it is to be noted here that in taking legal actions, there are two things considered as successes of KPK. *First,* all corruption cases charged by KPK in Corruption Court led to guilty sentences. *Second,* KPK imposes high standard in putting all graft suspects in detention.

Safety Zone from Law Enforcement: Legislative and Law Enforcers

From the legal actions taken by KPK so far, most cases handled by KPK were graft cases with state loss ranging from Rp 1 billion to Rp 20 billion (51%). Out of the 59 graft cases handled by KPK, only 5 cases involved state loses over Rp 100 billion (7%). The second largest group of cases was bribery that amounted 20 cases (34%). Based on the state loss handled, the degree of cases handled by KPK was not far different from what were handled by Attorney Office or Police.

Based on the perpetrators charged, KPK already took legal actions against five Heads of Region. For local context, these people could be categorized as big fish. In national context, however, it was middle level. Other corruption perpetrators that can be categorized as big fish are officials of ministerial level such as in the case of Theo Toemion (Head of BKPM). This was different from the DKP case implicating Rokhmin Dahuri (Ex Minister of DKP), as the suspect was no longer a minister and therefore political protection was not an obstacle for KPK.

Most perpetrators charged by KPK were project leaders, echelon officials, private businesspeople, members of commission and officials in secretariat general of government institution. Law enforcers, be it police, attorney and judge apparently were not yet made priority by KPK as there were only two perpetrators facing legal actions.

Similar situation was reflected from the legislative body, where there was no case handled by KPK. Apparently the parliament was still a safety zone, as it was also politically powerful to avoid legal charges. KPK, which was expected to have the ability to overcome political obstacles in law enforcement, still faced the same challenges.

Procurement of good/service as biggest case

Examining the modus and complexity of the graft committed, most corruption cases handled by KPK were graft around procurement of goods/services (33 of 59 cases handled between 2006 to end of 2007). The remainder included bribery and misuse of state budget.

That being said, a part of cases handled by KPK were cases with conventional modus, i.e. those perpetrated around procurement process. The graft modus in the procurement did not change much in the course of time, apart from the perpetrators that widespread. Marks-up, registering old goods as new one and direct appointment were modus used related to procurement.

Meanwhile, large-scale cases with more sophisticated modus that involved money laundering and financial engineering practices were none in the list of KPK's work results. It can be understood in the context that most resources in the legal action of KPK had the background of attorney, police and BPKP.14

All corruption cases sentenced guilty

One success that cannot be denied from the first term of KPK's leadership was that all cases charged in the Corruption Court led to guilty sentences by panel of judges. This indicates that the degree of corruption cases brought by KPK investigators could be well accounted for so as to create a condition where the uses of articles and misuse of evidences in releasing suspects could be eliminated.

Supervision and coordination

One shortcoming of KPK of first period in conducting coordinating and supervisory role was the small number of cases that were taken over. Apart from that, there was no note to confirm on the follow up of cases supervised and coordinated by KPK, handled directly

14 Among other cases the modus of which are particularly complex are a break of a bank, corruption in divestment of state-own enterprises, and the use of state fund in financial market. Such practices can potentially cause state loss, such as in the corruption allegation of divestment of PGN amounting Rp 1.3 trillion.

either by Attorney Office or the Police.

This can be associated to two things: first, the fact that there was no mechanism of sufficient supervision and coordination as an instrument of control in graft case handling by other legal enforcers. Second, there was no specific team designated on supervision and coordination so that there was an impression that this function was not a priority of KPK.

Chapter III. Corruption Eradication Priorities of KPK 2003-2007

Evaluating working priorities of KPK

In conducting corruption eradication work, all institutions surely have their limits, be it in terms of human resources, funding and complexity of cases. This way, priority needs to be set, either referring to the strategic value of the work as well as responding to the high expectation of the public, without undermining the authority and mandate provided by the Law.

In order to evaluate working priorities of KPK, the most relevant measurement was to see the list of activities carried out in eradicating corruption and the budget allocated for those activities.

Referring to those two things, it can be said that KPK made no priority when it came to choosing between legal action and preventive action as mandated by the Law. This means, the mandate of the Law was carried out by KPK by implementing all duties and authorities equally.

This created a problem as not what were mandated by the Law were sufficient responses to corruption issue. KPK should have had the capability to choose and determine what strategy would effectively address corruption issue, at least in its first period of leadership.

Seeing it from the budget allocation, the support for works related to legal action was relatively not big. The budget allocation for legal action by KPK was only 11% of the total budget. This is different from ICAC of Hong Kong, for instance, which allocated 70% of its resources for legal action works.

In a way, this is understandable as KPK also needed a reasonable amount of budget for

institutional setup, investment in organizational capacity and capacity strengthening of their staff.15

Focus on legal actions has actually been the big expectation of the public to KPK. The community even considered that preventive action focused on community education and implemented to activities such as distribution of posters, contests, seminar, and MoU were not important. KPK should not have organized such activities as NGOs have been running similar activities. They expect that KPK is focused on legal actions against corruption perpetrators spreading from Sabang to Merauke.16

KPK's Three Big Achievements

The establishment of KPK has strategic aims that can be categorized into three big outcomes. Firstly, its presence aims to recover the law enforcement that has been ineffective. In other words, KPK is challenged to promote the normalization of judiciary system and culture in the country, which has been corrupted, by positioning itself as *trigger mechanism.*

Secondly, KPK is also required to promote the emergence of deterrence effect in corruption eradication. While so far legal action undertaken by Attorney Office and the Police has been very limited and therefore create no deterrent effect, KPK with its big authority should be able to undertake better corruption eradication works. One of the indicators in corruption eradication by KPK is the presence of deterrent effect. Fear to perpetrate corruption should be spread to different state offices that corruption practices will eventually decrease. This way, there is no other way than assertive and firm action to current corrupt practices.

Finally, KPK should be able to promote the improvement in government system, which has been prone to corrupt practices. This includes enhancement of quality public services,

15 The budget allocation for legal action, which was considered small, was clarified by Deputy of KPK on Preventive Measures, Waluyo, in the anti-corruption movement national meeting held in Santika Hotel on February 5, 2008. He elaborated that legal action division in KPK did not only consist of inquiry and investigation, but also covered information and data, community complaint and LHKPN. Therefore, the small amount might refer to the budget for the operational costs of legal actions.

16 This is the result of ICW public consultations held in 10 provinces in Indonesia, i.e. Aceh, Padang, Riau, Semarang, Bandung, Jogjakarta, Surabaya, Kupang, Samarinda and Makasar during July through Agustus 2007. For complete results, please see matrix of public consultation results.

cutting down the long and winding bureaucratic chain, decreasing public service costs, reducing the potential for budget inefficiency and promoting effectiveness of public service works, as other areas of KPK's strategic works.

Based on the study and evaluation on the corruption eradication program of KPK during 2003-2007, it can be said that the achievements in reality were far from ideal.17

Chapter IV. Several issues of KPK18

Apart from the evaluation that has been brought forward above on the performance of KPK, there are also several substantial matters that, if not settled, will disturb the achievement of KPK works in 2007-2011. The matters can be categorized as elaborated below.

First, the issue of corruption eradication performance by KPK. As mandated by the Law, corruption eradication was conducted in the scope of KPK' authorities, which include several areas, i.e. legal action, preventive action, LHKPN and supervision-coordination.

In the area of legal action, an important thing to highlight is the absence of priority sector determined by KPK. In the legal action against graft cases, KPK tend to follow legal proceedings that were based on the easiness in obtaining evidences and reports from community.

The same story was there for preventive action. The area of preventive action work was distinguished from legal action so that there was no synchronization. In practice, the success of KPK's preventive action works was hard to measure. In the most likely preventive action like bureaucratic reform, there was no monitoring conducted to measure if certain government institution had made some improvements.

The State Official's Wealth Report (LHKPN) also had its issues. The most salient one was the low level of complacency by public officials to submit LHKPN to KPK. KPK did not make legal breakthroughs to take legal actions while finding public officials with unexplained wealth. How to verify wealth was also another obstacle. The public still had

17 For more evaluation result of KPK's performance of 2003-2011, please see documents of performance evaluation of corruption eradication of KPK 2007.

18 It was summarized from the formulation of KPK workshop held in Wisma Hijau, on January 28, 2008 by Coalition of Court Monitors.

difficulty in accessing the LHKPN data.

One of the instruments owned by KPK to conduct monitoring and control on the legal actions undertaken by Attorney Office and the Police is the authority of supervision and coordination. The public so far had never known the mechanism of supervision and coordination by KPK and what the results were.

Probably what disturbed the public most was whether the authority to take cases over was used by KPK effectively. In ICW's record, there were only 6 corruption cases taken over, and they were all under the jurisdiction of sub national attorney office and police, instead of Police Headquarter or AGO. While facing the issuance of SKP3 or SKP2, KPK seemed not to have a method to prevent that from happening or at least ensuring that the issuance had been based on acceptable legal ground.

The reason may well be the fact that KPK did not have specific resources to conduct supervisory and coordinating works and therefore seemed to be overwhelmed by the tasks. In addition, good database support was not available to ensure effective monitoring on the legal actions initiated by attorney office and the police.

Secondly, KPK still faced institutional problems in the aspects of human resources management, budgeting politics, performance management and community complaint management.

At the level of human resources management, KPK apparently has not taken advantage of professional qualification it owns. For the area of legal action, staff predominantly had the backgrounds of attorney, police and BPKP, whereas those with economic, banking and financial backgrounds were much needed to accelerate the legal action process. At least, professionals that have worked long time in the field of economic crime would find it easier to explain, elaborate and map the core issues.

The relations between community complaint department of KPK and the reporter were not well maintained, either. The report submitted by the community was only responded with a standard letter that gave an impression of formality. In fact, what was needed by the reporter was information on the progress of the case the reported to KPK.

Thirdly, there was a problem on how KPK develop a strategy to promote public

participation in corruption eradication. Public participation should not be limited to provision of access to report on corruption allegation. Instead, KPK as an institution should have an obligation to provide protection to witness/reporter, even when the witness/reporter has other criminal charge.19

While touching this issue, an MoU between KPK and Attorney Office on the procedures of reporting witness protection is difficult to materialize as there is a stipulation that witness/reporter implicated in other criminal act will not be provided with protection. So far it is difficult for the public to obtain information on the rights as reporter/witness.

Fourthly, it was the issue of KPK's independency. This becomes a sensitive as well as strategic area as KPK institutionally was established independently. However, in practice, there were many issues that can be related to the independency issue of KPK. Let's take the issue of "selective action" in dealing with graft cases, settlement of legal issues through 'indigenous approach', implication of KPK leadership in Cabinet meetings as well as other structural problems related to *esprit de corps.*

Fifthly, inter-institutional relations. The concrete manifestation of inter-institutional relations built by KPK was by having MoU as a form of partnership in corruption eradication. However, KPK seemed not to be selective in offering MoU or responding offer to have an MoU so that the issue of MoU with KPK easily fell into merely "washing dishes" mechanism. In the implementation phase there was no mechanism to monitor how far the MoUs were implemented by different government/state institutions, either.

Table 3. Problems of KPK

A. Legal action sector

Issue	***Description***

19 Considering that Law on Protection of Witness and Victim is made official by the Government and DPR, the works of protection for witness, reporter and victim in corruption cases handled by KPK should be in an integral part in the agenda of public participation promotion itself. Without proper protection, the witnesses, reporter and victim who have precise knowledge on a graft act will face difficulty in providing testimony and supporting evidences. We can reflect on the unlucky condition happening to Vincent in the tax fraud allegation by Raja Garuda Mas and bribery allegation to tax officers. The case reported to KPK is not completed, but Vincent has been charged by the police to court in a money laundering allegation. In this case it is obvious how the coordination in providing protection to witness and reporter was barely there.

Legal action	**Priority sector:** 1. Procurement of goods/services and bribery. 2. Part of cases handled and their perpetrators were at regional government level. 3. Actors targeted by KPK were non-active officials and regional officials. 4. National politicians, parliaments, directors of BUMN and law enforcers remained untouched. 5. State revenue (tax and customs), mining, forestry, fishery, BUMN and banking sectors were not in the priority. **Impact of legal action:** 1. *Deterrence effect* was still weak as most officials charged were no longer in their position. 2. Macro indicators of corruption eradication, including poverty rate, public service quality, CPI, business climate, law enforcement, audit results of BPK/BPKP and Human Development Index, remained the same. **Quality of human resources in legal action**: 1. There was a single interpretation that the term "investigators" only refers to the police and attorney. 2. The composition did not reflect the variety of corruption issues being dealt with. Most human resources in legal action had the attorney, police and BPKP auditor backgrounds.

In legal action sector, there are three big issues that can be elaborated. *First,* legal action as seen from the strategic priorities handled. In the evaluation of corruption eradication by KPK of first period done by ICW, it was revealed that graft case handling by KPK was focused in the sector of procurement of goods/services. This is sensible for two reasons, i.e. easiness and availability of supporting data for legal proceedings to take place and the large state budget allocation for this sector.

Aside the procurement sector, several other strategic sectors that could have been chosen by KPK were the sectors of tax revenue, banking, BUMN, mining and forestry. There is a simple reason, there is also a potential for huge state loss in these sectors.

In tax sector, the potential state loss as calculated by BPK RI in 2006 was as much as Rp

30 trillion. Tax revenue potential that was continuously decreasing year by year surely causes suspicion in the eyes of BPK. The fact that there is no access to tax information leads to likeliness for violation.20

Banking sector is also one that is prone to violation. We surely remember that the bad practices in banking sector contributed to the turbulence of economic crisis during 1997-1998. Corrupt behavior of bankers, both of state-owned and private banks, costed a fortune to the people at large as the crisis led to the government issuing BLBI policy. The total amount of BLBI poured to bail the bad practices in banking sector reached Rp 144.5 trillion.

That being said, however, KPK has to be consistent in playing its role as trigger mechanism as well as an instrument to recover the law enforcement in Indonesia. With regards to the sectors of cases handled by KPK, trigger mechanism cannot possibly work or will not be effective, if at all, because of the persisting graft problem among judiciary apparatus.

The law enforcement apparatus will not follow the steps of KPK while there is still a big pool of corruption in other law enforcement institutions. On the other hand, KPK of period I never tried to take legal actions against corruption perpetrators from among law enforcement institutions, e.g. judge, attorney or police officer. With this approach, KPK failed to achieve its two aims, to activate the trigger mechanism and to recover the law enforcement.

Similarly, the graft perpetrators KPK charged were partly former state officials so that it was difficult to measure its deterrence effect in corruption eradication. Politically, handling corruption case perpetrated by former officials compared to active officials would have had different implication. Eradicating corruption that implicates active official – particularly those in leadership position – will constitute a psychological message that anyone alleged of corruption will be brought to legal proceedings by KPK.

Secondly, KPK needs to calculate the impact of legal action (of corruption eradication in general) with macro indicators such as Corruption Perception Index, business climate, public service quality improvement and the declining number of state budget

20 BPK RI is filing a judicial review against Law on Taxes, which is considered as limiting the access of BPK and creates difficulty for BPK to audit state revenue from tax sector.

embezzlement, which can be figured out from the result of BPK and or BPKP examination.

This way, the macro indicators can be used as a kind of guideline for KPK to set priority scale, strategy and achievement of corruption eradication for the period of next 4 years.

Thirdly, another issue in legal action that is not of less importance is composition of human resources, which were predominantly attorneys, police officers and BPKP auditors. The choice of emphasis in procurement of goods/services in the first period explained this problem.

This argument does not intend to deny the professional capacity of the investigators in KPK; but proposes an assumption that KPK will be even more powerful if the legal action department of KPK is equipped with professionals from different backgrounds. More variety in the composition of human resources will empower KPK in dealing with corruption cases that are increasingly complex, complicated and require capacity in quickly mapping problems. The choice of procurement of goods/services in the first period of KPK is possibly associated to the background of personnel in the legal action division.

B. Preventive Action Sector

Preventive Action	**Relevance:** Prevention issue is not connected to legal action so that they seem to go along separately. **Priority:** KPK did not set priority in the level of preventive action and how to deal with it. **Budget allocation:** KPK allocated more budget in preventive action than legal action. This reflects its strategy in corruption eradication. **Monitoring and Evaluation:** There was no monitoring on the implementation of bureaucratic reform.

There are several issues to elaborate here. The main one is the relevance of prevention

agenda with the legal action sector at KPK. In the view of ICW, so far the preventive action agenda did not go in line with legal action. It seems that the responses and prevention divisions did not make teamwork in combating grafts, and instead were two different sections happening to be in the same organization.

If there had been teamwork, the response works conducted by KPK should have been followed up by prevention agenda, particularly by focusing on analysis of system flaws and graft-prone system, and then permanent improvement. This would have been more sustainable than the approach of treating responses and prevention as two different areas.

Internally within the works of preventive action there was a problem that needed to be addressed immediately. In general, the preventive action conducted by KPK seemed to be limited to the anti-corruption celebration works, the success indicators of which were not easily quantifiable. The fact that only output parameters were available gives the impression that the works were only a matter of responding the mandate of the Law and fulfilling the available budget allocation.

The criticism from the public in a number of public consultations held by ICW showed that preventive action by KPK, particularly those related to seminars, talk show, poster distribution, poems, music concerts under the theme of anti-corruption and millions of anti-corruption education activities were not considered necessary and strategic.

The criticism is actually relevant with what had been studied by Anwar Shah and Jeff Huther, researchers in the field of corruption eradication requested by the World Bank to evaluate corruption eradication agenda and program in several Asian countries. The study was published in a well-written paper titled "Anticorruption Policies and Programs: A Framework for Evaluation" in December 2000.

In essence, the paper recommended that anti-corruption policy and program that a country would develop should be based on an assessment of the quality of governance, whether it fell into the category poor, fair or good. In an objective calculation, Indonesia was categorized as a country with poor governance as indicated by the macro indicators.

What is relevant for corruption eradication program and policy in as situation of poor quality of governance is strengthening four agenda of corruption eradication, i.e. economic policy reform, promotion of independent press and judiciary, enhancement and

strengthening of public participation, and streamlining the bureaucracy as well as law enforcement.

Among the four strategies, the most likely thing to do in the sector of preventive action is enhancement and strengthening of public participation in combating corruption and bureaucratic reform. However, this agenda should not be interpreted as anti-corruption celebration that take much energy and costs, but may not have the right method or target.

C. State Officials' Wealth Report (LHKPN) Sector

LHKPN	**Compliance to report:** Number of reports submitted by public officials was relatively very low. No information to public the non-complying public officials. **Breakthroughs:** KPK did not take any legal measure against non-complying state officials. KPK did not take legal action started from finding from LHKPN. **Verification:** KPK faced difficulty in verifying if information in LHKPN is true. KPK faced difficulty in verifying the evidences submitted along with the wealth report. KPK did not engage the public in doing the verification. **Participation:** Public access to LHKPN is very limited.

The other problem faced by KPK was related to the issue of LHKPN. So far, the performance with regards to LHKPN was limited to administrative function of continuously keeping record of every submission from the PN, without knowing the implication in terms of anti-corruption environment creation even for the PN itself. This could be seen from the low compliance of PN in submitting LHKPN to KPK. It is to be noted that the submission of LHKPN is obligatory. The low compliance happened in almost all PNs, including those in the legislative, judiciary and executive bodies.

The fact that there was not real action to promote the level of compliance for PN to submit LHKPN led to a behavior not to consider LHKPN as something important. Until today,

KPK does not take any measure to PN that has not submitted his/her LHKPN.

LHKPN itself was not optimally used as an instrument to crack corruption case. The phrase of "*follow the money to track the crimes"* was not known in the context of LHKPN. If at all, the ratio was very low compared to the number of PN that were obliged to submit their LHKPN.

Actually the public had the initiative to confirm and check directly if the LHKPN submitted by PN was true. However, access to LHKPN was still very limited.

D. Supervision and Coordination

Supervision and Coordination	1. There was no clear supervision and coordination mechanism by KPK. 2. Supervision and coordination was done based on cases, not performance. 3. Only few graft cases were taken over by KPK. 4. KPK could not stop the issuance of SKP3 or SKP2 in order to control corruption in Attorney Office and Police. 5. KPK did not have the information system to handle graft cases from attorney office and police. 6. KPK did not have specific resources in the area of supervision and coordination.

Based on the performance evaluation of KPK of the first period, the follow up of supervision and coordination on corruption case handling by other law enforcers did not have clear end results. There were even graft cases supervised by KPK that were eventually closed by Attorney Office by issuance of an SP3.21

21 The researcher once attended a case presentation on corruption in procurement of PLN generator in Kendari, which was allegedly had implicated the Governor of South East Sulawesi, Ali Mazi, in the AGO. Present in the case presentation were JAMINTEL of AGO, Provincial District Attorney, of South East Sulawesi, District Attorney Office of Unaha, representative from BPKP and Tumpak Hatorangan Panggabean representing KPK. As a conclusion of the case presentation, KPK requested that District Attorney Office of Unaha, Fadil (currently Aspidsus of Provincial Attorney Office of West Sumatra) to settle the corruption allegation case in this generator procurement in 1 month's time. However, the case was later closed by the Attorney Office by issuance of an SP3. Similar story took place in the corruption allegation case of PLN of Borang, which was processed by the Police and Attorney Office, where charges were finally withdrawn.

There were indeed some cases with better record, in the forms of case take over as in the cases of Abdullah Puteh, Suwarna, Syaukani, and Head of Kendal District. However, the take over was only effective at the levels of province and district/city, but not the Police Headquarter and AGO.

In the record of ICW's public consultations in several regions, the public also emphasizes the importance of KPK to strengthen its supervisory and coordinating roles, when the case takeover function cannot be carried out quickly. This indicated that supervision and coordination done by KPK in the regions did not bring convincing results in public eyes, which is that the Attorney Office and Police have done good job. As a matter of fact, there are many graft cases the handling of which was stilted.22

E. Community/Public Complaints

Community Complaint	1. It was difficult to obtain progress update on complaint submitted by the public (not accountable). 2. There was no minimum standard on the complaint that can be followed up or received (complaint report format). 3. Those positioned in the division of community complaint were administrative staffers who cannot provide further information or elaboration on the content of report.

The fact that there are many complaints submitted to KPK indicates that the level of public confidence to KPK was still high. Apart from the quality of reports, the public had high expectations that KPK settled corruption issues in various regions. It is relevant with what was previously discussed; it is not possible for KPK to handle all graft cases.

This also marks that KPK cannot handle alone all the corruption allegation complaints submitted by the public. Therefore, the issue of recovery of law enforcement becomes very relevant considering that without the strategy KPK will always be overwhelmed by receiving so many complaints. These complaints should also be interpreted as a form of

22 In the report of anti-corruption NGO from several regions in Indonesia to AGO on November 2006 it was mentioned that corruption cases whose handling were halted reached 246 cases. This figure excludes the cases terminations of which were caused by issuance of SP3 by Attorney Office or the Police.

lack of confidence in Attorney Office and the Police.

On the other hand, however, the problem of case handling management at KPK should not be ignored. The complaints of many reporters on the fact that they were not given proper attention by KPK indicated this problem. The impression received while a complaint was submitted was formality. Meaning, KPK gave responses in the form of reply letter to the reporter, but the progress update was never known. If this is not properly addressed, there may be an antipathy attitude towards KPK.

At the same time, the complaint reception at KPK had an administrative nature so that it cannot provide the right advice when a complaint was not supported by enough evidence for follow up. This created a two-fold problem, as the reception of complaint without early check by KPK led to a perception that the complaints have completed all requirements.

Apart from the aforementioned problem, the other obstacle faced by KPK elaborated in previous pages was related to the public participation, independency of KPK and inter-institutional relations developed by KPK so far.

For the last mentioned matter, there was a symptom that it becomes too easily for KPK to establish corruption eradication MoU with government institutions, be it at national, provincial and district/city levels. MoU was then used simply as a political cosmetics for public officials in the regions when it was not accompanied with strong enough political will to fight corruption. What was worried about was that the MoU was misused as a way of image building by individuals or institutions, but never contributed directly to overall system improvement. KPK therefore should have been very selective in having partnership with other government institutions.

The aforementioned problems, in the perspective of Coalition of Court Monitors, stand on the way of effective corruption eradication by KPK.

Chapter V. Recommendations for KPK

Given the results of performance evaluation of corruption eradication during 2003-2007, corruption eradication problems faced by KPK, as well as overall situation regarding corruption in Indonesia that does not show significant improvement at macro level as presented before, KPK needs to take these measures:

Priority and Working Strategy Aspects

Measures to be taken byKPK:

1. From the perspective of sectors to eradicate, KPK should observe the main factors that will hinder corruption eradication, which are judiciary and political sectors. That being said, KPK should prioritize the function of legal action to address corruption problems in the parliament and judiciary institutions, including attorney offices, the police and courts. With these areas as the focus, the recovery of law enforcement can be realized and public policy issued will have better quality.
2. From the perspective of strategic sector based on the amount of fund that can be saved by KPK, its focus is on the area of state revenue such as tax and customs, mining, forestry, fishery, BUMN and banking. So far KPK has been more focused on the expenditure side of the state budget but set aside the revenue side, which is more likely to leak.
3. KPK has to also prioritize legal actions against cases implicating high level officials such as parliament members, directors of BUMN and law enforcers.
4. The legal action division of KPK needs to be enhanced by enriching the resources of investigators to include different backgrounds such as finance, energy/oil and gas, banking and IT. This is intended to accelerate the legal action work, as well as expanding the scope of legal action to be not limited to the area of procurement of goods and services.
5. KPK has to also develop a performance standard of legal action by including several relevant parameters such as expected number of cases handled every year, time needed to handle a case, priority of case, acceleration of outstanding cases, evaluation and reexamination of case termination that attract public attention, development of information management system, appointment of JPU in important cases, improvement of internal control, case examination free from court, better coordination in certain crime handling with other institutions, execution of verdicts, arrest of suspect,

suspect/defendant's asset inventarization and freezing as well as policy of overseas travel prohibition.

6. KPK has to formulate the measurable impact of legal action so as to identify the achievement of corruption eradication program. The parameters can be the decrease of corruption perception index and the decrease of public budget embezzlement.
7. KPK has to also enhance transparency by providing regularly information related to the number of cases in the process of investigation and legal charges. With regards to information with secret nature, KPK can draw the line by providing limited information, which may include the case title, development of case status and target of settlement. The information needs to be provided regularly to the public at large.
8. To support more effective legal action, KPK has to also allocate larger budget in the field of legal action. This will also constitute the corruption eradication strategy chosen by KPK.

Preventive action:

1. To reduce the ineffective use of state budget, KPK has to review the approach of its preventive actions. It would be batter for KPK to set a priority in the area of preventive action on the issue of bureaucratic reform/system improvement, rather than public education. The latter activity designed by KPK has more celebration emphasis, instead of promotion of larger public engagement and awareness in corruption eradication.
2. KPK has to also rethink about the public education strategy. Communication format needs to be improved by developing programs that may lead to the emergence of social sanction by the public such as broadcasting of corruptors' faces or hidden camera.
3. KPK has to prioritize its preventive action in the area of procurement system of goods/services as it is in this sector that many graft cases are revealed by KPK. There must be lessons learnt to take to promote the agenda of system improvement. KPK has to also be able to promote transparency in different institutions related to state revenue sector.
4. KPK has to also synergize the works of legal action and preventive action. Bureaucratic reform has to be a follow up from the legal action conducted previously.
5. As the focus of KPK's preventive action is on bureaucratic reform, more budget allocation for preventive action has to be also appropriated to the implementation of this function.
6. In ensuring that there are clear achievements in system improvement and bureaucratic reform, KPK has to conduct regular evaluation to measure the level of achievement of its preventive program.

LHKPN:

1. By reflecting to the low compliance of public officials in submitting LHKPN, KPK has to make breakthroughs by using criminal charges against non-complying state officials.
2. KPK has to also publish the list of non-complying state officials.
3. KPK has to also publish the list of state officials who are obliged to submit LHKPN so that no state officials who have this obligation can make excuses.
4. Considering that the verification works of LHKPN is quite hard, KPK has to provide personnel with specific duties to deal with this.
5. Public access to LHKPN has to be provided by publishing LHKPN to the public, which is at the same time opening doors to reveal the dissimilarity between officials' wealth and the report submitted to KPK.

Supervision and Coordination:

1. As KPK cannot carry out the legal action function against all corruption cases, while the legal actions undertaken by Attorney Office and the Police cannot be accounted either result-wise or quality-wise, KPK has to enhance the effectiveness of its supervisory and coordinating role. In order to ensure that this function makes an institutional work carried out regularly and actively, KPK has to establish a specific unit working for this purpose.
2. The level of supervision and coordination is not only done at regional level but also at national level with the Police Headquarter and AGO.
3. KPK has to undertake case takeover quickly before a legal proceeding is terminated by issuance of SP3 or SKP2 by AGO or the Police.
4. To support the supervisory and coordinating works, KPK has to design one database as a part of information system of supervision and coordination management that can be used as an instrument to control the development of case handling by police or attorney office.

Institutional Aspect

Human Resource Management:

1. KPK has to enrich the human resources in the field of legal action by recruiting as many prosecutors as possible with various background. This is done in anticipation of the difficulty in dealing complex and complicated graft cases, as well as in supporting the works of legal action.

2. KPK has to also promote a change in discourse and interpretation on several regulations that stipulate that prosecutors have to police officers and attorneys. It is to be underlined that prosecutors as apparatus that receive mandate from the leadership of KPK do not have to come from the police or attorney office.
3. In providing support for more effective legal action KPK has to allocate more resource in the area.

Community Complaints:

1. KPK has to improve the management of community complaints as the concern of reporter was mainly lack of information with regards to the development of case handling reported to KPK.
2. In maintaining communication with the reporter, community complaint section of KPK has to develop the adequate capacity and knowledge on corruption criminal act. This section is not a mere administrative unit of record keeping but also required to bridge the content of case reported. This way, it can be identified immediately if a corruption case complaint is accepted, processed further or the reporter is requested to add more evidence.
3. KPK has to publish regularly the development of case as reported by the public with the aim of maintaining the credibility of KPK and confidence of the public.

Development of Community Participation:

1. KPK has to develop witness and reporter protection program, as well as developing the protection mechanism.
2. KPK should not ignore the fact that there are witnesses that may have or be implicated in other crime. KPK should not, however, use that argument to not provide protection considering the witnesses' strategic position in cracking a corruption case.
3. KPK has to raise awareness on the mechanism of witness/reporter protection to increase the courage of the community in submitting information with regards to a graft act.

KPK Independency;

1. Despite the liberty to apply selective action as KPK cannot handle all cases, KPK has to take into consideration the aspect of corruption perpetrators themselves. KPK should not put forward the argument that as a corruption perpetrator is still in position; case handling is postponed until the official is non-active or retires.
2. KPK has to maintain its independency by not handling a corruption case or provide

information on a case handling facing a public official's end of term to avoid politicization.

3. To maintain its independence, KPK needs not to be engage in internal functions of the executive, except in the context of carrying out the supervisory and coordinating function.
4. To avoid settlement of legal cases using "indigenous" approach, KPK has to place law supremacy above all in taking decisions.
5. KPK Leadership has to uphold the code of ethics.

Inter-institutional Relationship:

1. KPK must be more selective in selecting and developing an MOU/partnership with certain parties in order to avoid a one-side exploitation by the party taking benefit from the MoU.
2. KPK must conduct monitoring and ensure that the MoU is implemented in accordance with the agreed provisions.

****

Annex 1

Table I. Compilation of Inputs from Public Consultations in 10 Provincial Cities

NO	ACTIVITY AREA	KPK PERFORMANCE EVALUATION 2003-2007	KPK FORMAT 2007-2011
1.	Padang, West Sumatera	1. KPK's extraordinary mandate and authority was not responded with extraordinary work realization (ordinary graft case handling). 2. KPK's corruption eradication work did not create deterrence effect yet. 3. KPK still took selective approach in investigating graft cases. 4. KPK did not take new and BOLDER breakthroughs in cracking graft cases. 5. The implementation of KPK Monitoring function in West Sumatera is not known by the public. 6. KPK awareness raising did not reach general public yet (grassroot level) so that many case complaints submitted did not fall to KPK's jurisdiction and not even graft cases. 7. KPK's authority in supervision and coordination was not carried out effectively so that many graft cases handled by Attorney offices and police in West Sumatera became even more uncertain. 8. KPK did not exert its authority to take over terminated cases in West Sumatera.	1. Focus on more legal action works supervision and coordination, and corruption education program. 2. Add and strengthen resources in t action as well as supervision and c be assigned as task force to carry legal action, supervision and coor regions. 3. KPK's legal action is focused in c government officials. 4. KPK develops network with the p corruption more effectively. 5. KPK should have priorities and ta graft cases. 6. To increase the deterrence effect, maximum charges in its prosecuti (life time maximum).

		9. KPK DID MORE ANTICORRUPTION EDUCATION ACTIVITIES THAN SUPERVISION AND COORDINATION (LEGAL ACTION).	
2.	Semarang, Central Java	1. KPK had too large a scope of work so that it entered cultural field, i.e. corruption eradication through anti-corruption education. This has overwhelmed KPK, whose resources are limited. 2. In legal action against corruption, KPK left untouched the collusive relations between three areas of power, i.e. public officials, politicians and capitalists. It is actually this relation that constitutes the most fundamental structural problem leading to corruption. 3. Supervision and coordination as an authority of KPK was not effective so that many graft case charges were terminated; in Central Java the figure reached 70 cases. 4. Court mafia, such as corruption by law enforcers (attorney, police officer, judge) and lawyer were left untouched by KPK, so were graft cases in taxes and customs. 5. KPK still took selective approach in corruption eradication. 6. The budget managed by KPK for corruption eradication program is bigger than the recovery of state loss from corruption cases.	1. The extraordinary authority in c by KPK needs to be maintained. 2. KPK has to be focused in hand that are strategic and create lo large. In addition, KPK should regions, in which arrangement handle corruption cases with min 500 million. 3. KPK should take over graft c transferred back and forth 4 time and attorney office (P 18 and P 19 4. KPK should keep its independenc 5. KPK should prioritize repress action) and the return to state ac by corrupt practices, instead of pr 6. An internal control within established to keep the integrity o 7. KPK's leadership and staff need sufficient level of welfare and spe

		During 3 years of corruption eradication program, KPK could only submit Rp 50.04 billion to state account, while the expenditures reached Rp 247.68 billion. 7. Corruption eradication by KPK has not created deterrence effect for the perpetrators due to not maximum punishment. Life-time imprisonment should be applied against corruptors, particularly when it is KPK that leads the prosecution against corruption case suspects.	
3.	Pekanbaru, Riau	1. So far KPK did selective prosecution as many public complaints were not followed up on. 2. KPK did not give explanation why certain complaints were not followed up on or even delegated to the Attorney Office. 3. Legal action function was not the focus. This is indicated by the fact that budget allocation for legal action was less than that for preventive action. 4. The role of KPK in the regions, particularly in Riau, was quite limited. This was mainly related to the fact that there were no graft cases from Riau that were handled or supervised in a transparent way by KPK. 5. The measures taken by KPK tend to be political, while as a law enforcing institution,	1. Advocate for the amendment of l on KPK so that recruitment is c engaged the public, mainly as K the public. With the current selec feared that political intervention by Selection Committee, the Pres 2. Promote the quality enhancemer quantity of KPK's human re establish KPK's presence in the re 3. Encourage KPK to be focused on corruption eradication by increas for legal actions. 4. Legal action program needs to be of supervision and coordination c the police and attorney office. K cases whose settlement has been p

		KPK should have based its measures on legal considerations. One of the indicators of political action was the fact that KPK leadership often consulted with the President. 6. The amount of state loss due to corrupt practices that KPK managed to recover was very small compared to the expenditures incurred for KPK operations. 7. KPK so far had neither target nor focus on sectors in which corruption would be eradicated, while considering the acute level of corruption in the country, KPK should have set some priority.	5. KPK has to increase its transpar both budget and public comp provide clear information if the by the public are followed up on law enforcement institutions.
4.	Surabaya, East Java	1. KPK still took selective approach in handling cases. 2. KPK only handled conventional corruption cases (56% cases brought to trial were cases of procurement of goods and services, while 34% were bribery cases). 3. The legal procedures of corruption case handling by KPK in general still referred to KUHAP (while KUHAP is also used to handle conventional cases) 4. Human resources strategy was weak, legal action field is dominated by personnel with conventional law enforcer background (attorney, police officer, BPKP). In addition,	1. KPK has to be brave and firm should not take selective approach 2. KPK needs to maximize protec reporter of graft allegation 3. KPK needs to maximize the co supervision of other law enforcem 4. The public needs enough ac performance of KPK 5. Case handling needs to be d efficiently 6. There needs to be an improvemen system at (recruitment and compo 7. There needs to be a special legal cases to support corruption case h

		KPK still lacked of sufficient human resources (in relations to cases handled) 5. Not yet maximal in encouraging public participation and providing protection to witness/reporter of graft cases 6. KPK working area is predominantly in the Central (settlement of graft cases in the regions was not attended as the main priority; there were only 15 regional cases out of 59 total cases) 7. Coordination and supervision conducted by KPK with other law enforcers (attorney offices and police) was still weak (not a priority) 8. Political pressure was still too strong and influences case handling 9. KPK did not open enough access to the public to find out KPK's performance 10. KPK tend not to be efficient and effective in the examination of witness/suspect of graft case; this led to inefficient. 11. KPK was seen as not independent enough (there was an evaluation that KPK is subordinate of the President) and weak in the constitutional arrangement (prone to charges in the MK).	8. KPK needs to be independer impression that it is the Preside this purpose, KPK needs to k bureaucracy 9. KPK has to strengthen its partı organizations that care about corr 10. KPK needs to also be established

5.	DENPASAR, BALI	1. KPK still took selective approach in case handling. 2. Coordination and supervision of KPK with other law enforcement apparatus were not optimal. 3. KPK was seen as not independent enough (there was a perception that KPK was below the President). 4. The graft case handling did not reach legislative and judiciary bodies or those in the military. 5. KPK has not applied reverse onus of proof provision. 6. KPK's works in LHKPN was not optimal. 7. Many graft cases the handlings of which were terminated were not taken over by KPK.	1. With regards to public particip strengthen the community group in order to support corruption e to open up public sphere in cont performance of KPK 2. Independency of KPK as an in maintained. 3. A regional presence of KPK in th established with limited autho action but for, for instance, complaints and preventive action 4. KPK needs to strengthen its dut supervision and coordination of g by attorney office and police in th 5. No more selective approach in co 6. There needs to be prioritizatio there are huge state losses. 7. With regards to corruption pe should be set on leaderships of g and the law enforcers. 8. KPK should be able to handle c (retroactive principle). 9. There needs to be a body r recovered from corruption practic 10. The existence of Corruption maintained and opportunities sh its establishment at provincial

			career and non-career backgroun
6.	MAKASSAR, SOUTH SULAWESI	1. There was resistance among attorney and police in being coordinated and supervised by KPK, while KPK seemed to be reluctant in enforcing its authority. 2. KPK could not crack corruption cases indiscriminately due to political intervention in graft case handling, particularly those implicating state officials. 3. KPK did not dare to take over corruption cases; the case of South Sulawesi DPRD was closed by issuance of SP3 by Police Regional Chief. 4. KPK did not dare to handle directly graft cases implicating active public/political officials that were still in power or protected by those in power. 5. There were no technical rules on coordination and supervision of KPK to other institutions such as coordinating and reporting mechanism so that KPK could not implement punishment in the failure of other institutions to submit case handling reports. 6. KPK was still weak in taking decisions, particularly in dealing promptly with strategic cases. 7. KPK only dealt with central level corruption cases, while it was also needed in the regions.	1. As made possible by Law No. needs to have a presence at provin 2. Internal recruitment pattern in K open to those not having police backgrounds. 3. KPK should be more focused on preventive ones.

		8. KPK was not transparent on the cases it was handling. 9. KPK was not yet optimal and effective in eradicating corruption because there was no coordination and personnel were too few. 10. KPK seemed not to be independent. 11. The leadership of KPK did not have oversight body of equal position and therefore their decisions were taken without control. 12. There was an element in KPK leadership that had retired as law enforcer that corruption in the former institution could not be handled. 13. KPK spent too much money. The asset recovery was too low in comparison to the expenditures. 14. There was no regular coordination between KPK leadership and other law enforcer apparatus. 15. Corruption eradication done by KPK left untouched legal institutions that had authority in corruption eradication, particularly the court.	
7.	Samarinda, East Kalimantan	1. KPK has just handled corruption cases in small scale and mostly those related to procurement and bribery cases. 2. The choice of corruption case handled was not based on the strategic element to create deterrence effect but instead on the easiness to crack it.	1. Coordinate with oversight and law such as BPK, BPKP, PPATK as w and the police. 2. Enhance the quality and quantity particularly in the area of legal a allocation for legal action.

		3. The cost of corruption eradication by KPK was still much higher than the state asset recovered. 4. The program in preventing LHKPN and gratification did not promote compliance of state officials to submit LHKPN and report on gratification received. 5. KPK has not exercised its authorities optimally. 6. KPK had limited role in handling cases in the region.	3. Priority scale in strategic cases to effect, particularly by focusing le with huge state loss such as in cor and miining sectors as well as tho enforcers. 4. KPK has to use LHKPN mechanis legal action so that officials' wea an effective prevention mechanism political contract with would-be c implicated in graft. 5. Urge the acceleration of legislati corruption court that is in line wi and handles all graft cases. 6. There is a need for a figure in KP braver and has strong legitimacy i pro-active in handling cases, parti graft case indications from the re KPK representatives in the region 7. There needs to be legal sanction f do not submit wealth report or su their wealth. One of the possible s law No. 28 year1999 on governan corruption, collusion and nepotism 8. There has to some accountability reporter of graft cases, especially update on the case handling. In ad performance needs to be audited.

			9. KPK NEEDS TO WORK TOGETHER WITH MANAGE ASSETS SEIZED FROM CORRUPT LOSS CAN BE RECOVERED OPTIMALLY.
8.	BANDUNG, WEST JAVA	1. KPK existence is not rooted in the regions (as regional cases are not yet prioritized). 2. KPK was seen as selective. 3. KPK did not yet have right mapping/formulation in finding out the root of corruption problem (related to its strategy) 4. KPK seemed to be frightening (the impression was KPK equaled legal action), prevention needs to be maximized. 5. Seemed to be slow (that might lead to decreasing confidence of the public) 6. Budget allocation is no comparison with the asset recovery 7. Did not meet public expectations 8. The achievement needs to be appreciated (in terms of better rank in corruption globally) 9. KPK personnel was still an issue (recruitment, quality or integrity) 10. Seemed to be bureaucratic (Example: KPK's response to public complaints) 11. Public access to LHKPN was difficult and LHKPN data was not updated 12. Coordination and supervision did not contribute to the case handling in attorney	1. KPK needs to have a presence in district level) 2. Public access needs to be opened performance 3. Reporting needs to be honest and regards to performance and finan 4. KPK needs to have the authority for inquiry and investigation from attorney and police backgrounds 5. KPK needs to establish an educat future personnel 6. KPK needs to establish anti-corru CSO/NGO 7. KPK needs to maximize public pa and elements, including, for exam teachers) 8. Promote specific body to manage corruption cases 9. Enhance quality of KPK personne 10. Expand and improve public partic NGO) 11. Organizational structure (a task fo complaint handling is needed) 12. Maximize reverse onus of proof p

		offices and police (Example: Land plot case in West Java) 13. No clear priority of KPK activities/duties 14. KPK left untouched strategic issues such as health, education, infrastructure, and state financial revenue and expenditure sectors 15. Not applied maximally reverse onus of proof provision. 16. Lack of public access to KPK financial report. 17. Public participation was not maximized to go beyond being reporters or spectators	13. A permanent activity for public c (minimum every 6 months) 14. Maximize information to public c (media/journal/book/etc) 15. Pay more attention to corruption i 16. KPK has to prioritize legal action sectors: ▪ Court institutions ▪ State revenue and expenditures financial/banking, public work ▪ Departments in public sectors education and health) ▪ Money politics
9.	KUPANG, EAST NUSA TENGGARA	1. Case handling was Jakarta-centered (people in the regions felt that KPK was only present in Jakarta); case handling in the regions was not a priority yet 2. KPK presence was not fully supported by various components/elements (law enforcers, civil society (Example: jealousy of other institutions, judicial review efforts) 3. Human resources strategy was still an issue (recruitment, transparency, composition, quantity/quality, etc.). 4. No clear performance indicators. 5. No clear focus between asset recovery and legal action. 6. Legal stipulations used by KPK was the conventional ones (still used KUHAP) so it	1. Priority on case handling in the re presence at regional level 2. Conduct evaluation of human reso (recruitment-transparency, compo quantity/quality, etc.). Clearer per are needed. 3. Needs to be clear focus between a legal action. 4. Promote changes in regulation tha better KPK performance (Law on Acts, Corruption Court, KPK itse 5. KPK has to maximize the roles of eradication 6. Case handling should be focused deterrence effect or causes huge s 7. Strengthen supervision and coord

		was not maximal 7. KPK was seen as not maximizing the public participation through protection of witness/reporter. 8. KPK did not maximize roles of CSO in corruption eradication 9. The handling of corruption case in general has not created deterrence effect 10. KPK has not concentrated in asset recovery but still focused in handling cases that caused state loss (operational costs was larger than returned asset) 11. The exercise of supervision and coordination function with attorney offices and police was seen as still weak (indicated by many terminated cases were not taken over by KPK, with cases in NTT as examples).	KPK with attorney offices and po (terminated graft cases should be
10	Banda Aceh, NAD	1. KPK was not able to carry out its duties as mandated by Law No. 20 year 2002 on Corruption Eradication Commission, among which KPK's roles are not limited to preventive action, but also legal action as well as supervision in graft case handling. 2. Out of the budget managed by KPK in 2005 of Rp 170 billion, only Rp18.18 billion or 11% was spent on legal action. This indicates that KPK did not see legal action as something important, while legal action was considered as an effort to boost public confidence.	1. Improve the budget for co particularly in the field of lega apparently brings public confiden combating corruption in Indonesi

		3. Limited number of personnel led to the capacity in carrying out legal and preventive actions as well as anti-corruption education. This contributed to the low number of cases KPK was capable to handle. 4. Composition of cases handled by KPK was the following: 56% corruption in procurement of goods/services, 34 % bribery, budget misuse 10 %. Seeing from their modus operandi, the cases were conventional ones, meaning that they could have been handled by Provincial and District Attorney Offices. 5. KPK only handled cases with sufficient data or evidence, and not based on the impact of the graft. This led to a perception that KPK took ”selective prosecution” in handling corruption cases. KPK was also seen as almost leaving untouched the military institutions and ”big fish” in the private sector. In fact, the largest potential for state loss comes from private sector, BUMN and stock market. 6. During the three years of 2004 to 2006, corruption eradication program of KPK managed to recover state loss of Rp 50.04 billion. This is much lower than the KPK budget for three years that reached 247.68 billion. It can then be said that KPK failed in	

		doing asset recovery lost in corruption practices. 7. KPK liaison office in Aceh was not yet effective in carrying out its functions and authorities, while the office is the only in Indonesia that has received 400 public complaints. Out of the 400 complaints, 333 were not graft cases so that only 67 were followed up on. However, part of them was transferred to the attorney office and police.	

SUMMARIZED FROM PUBLIC CONSULTATIONS IN 10 PROVINCIAL CITIES, ICW, 2007

Annex 2

Problem Chart of KPK

Issue	*Description*
Legal Action	**Priority sector:** 1. Procurement of goods/services and bribery. 2. A part of cases handled as well as the perpetrators were at regional government level. 3. The perpetrators targeted by KPK were non-active officials and local officials. 4. National politicians, parliaments, BUMN directors and law enforcers remained untouched. 5. State revenue (tax and customs), mining, forestry, fishery, BUMN and banking sectors were not yet put as priority. **Impact of legal action:** 1. Deterrence effect was still weak as officials charged were mostly no longer in their posts. 2. Macro indicators of corruption eradication, including poverty rate, public service quality, CPI, business climate, law enforcement, audit results of BPK/BPKP and Human Development Index, remained the same. **Quality of human resources in legal action**: 1. There was a single interpretation that the term "investigators" only referred to the police and attorney. 2. The composition did not reflect the variety of corruption issues being dealt with. Most human resources in legal action had the attorney, police and BPKP auditor backgrounds.
Preventive Action	**Relevance:** Prevention issue was not connected to legal action so that they seemed to go along separately. **Priority:** KPK did not set priority in the level of preventive action and how to deal with it. **Budget allocation:** KPK allocated more budget in preventive action than legal action. This reflected its strategy in corruption eradication. **Monitoring and Evaluation:** There was no monitoring on the implementation of bureaucratic reform.
LHKPN	**Compliance to report:** Number of reports submitted by public officials was relatively very low. No information to public the non-complying public officials. **Breakthroughs:** KPK did not take any legal measure against non-complying state officials. KPK did not take legal action started from finding from LHKPN. **Verification:** KPK faced difficulty in verifying if information in LHKPN is true.

	KPK faced difficulty in verifying the evidences submitted along with the wealth report. KPK did not engage the public in doing the verification. **Participation:** Public access to LHKPN was very limited.
Supervision and Coordination	1. There was no clear supervision and coordination mechanism by KPK. 2. Supervision and coordination was done based on cases, not performance. 3. Only few graft cases were taken over by KPK. 4. KPK could not stop the issuance of SKP3 or SKP2 in order to control corruption in Attorney Office and Police. 5. KPK did not have the information system to handle graft cases from attorney office and police. 6. KPK did not have specific resources in the area of supervision and coordination.
Community Complaint	1. It was difficult to obtain progress update on complaint submitted by the public (not accountable). 2. There was no minimum standard on the complaint that could be followed up or received (complaint report format). 3. Those positioned in the division of community complaint were administrative staffers who could not provide further information or elaboration on the content of report.
Participation	**Witness/reporter protection:** Witness of graft cases who was also charged for other crime was not protected by KPK. There was limited information with regards to the rights and protection mechanism of witness and reporter.
Independency of KPK	Selective approach in graft case handling. Case settlement in an "indigenous" way. Engagement of KPK leadership element in executive function. **Structural problem, i.e. attorney and police officer as predominant elements in KPK.**
Inter-institutional relations	KPK was not selective in having partners with whom they establish MoU. MoU drafted seemed to be used merely to build image of the partner institutions and the concern that it would be used as a justification for the institutions. MoU was not followed up with monitoring measures on its implementation, the result of which could be published to the general public.

Summarized from Focus Group Discussion of Coalition of Court Monitors held in Wisma Hijau, January 2008

Ratings on Relevance of a Menu of Anti-corruption Programs

Program	Country's Quality of Governance			Comments
	Weak	**Fair**	**Good**	
Raising public awareness of corruption through seminars	Not relevant	Low	Medium	In countries with weak governance, corrupt practices and agents are generally well known.
Raising awareness of public officials through seminars	Not relevant	Low	Medium	Public officials may be aware of corruption but unwilling and/or unable to take action due to incentive problems in countries with weak governance.
Anti-corruption agencies / Ombudsman	Not relevant	Low	Medium	With endemic corruption, anti-corruption agencies or ombudsman may actually extort rents. Positive influence if pre-conditions for good governance exist.
Ethics office	Not relevant	Low	Medium	Positive influence may be limited to societies with good governance.
Raising Public Sector wages	Negligible	Low	Medium	May have positive impact on petty corruption but little impact on grand corruption. Negative impact if part of problem is excessive public employment.
Reducing Wage Compression	Negligible	Negl.	Negligible	More relevant as an incentive mechanism for career development. May increase corruption if the public sector viewed as lucrative career option by greedy elements of society.
Merit based civil service	Low	Medium	High	May be derailed by bureaucratic processes in highly corrupt societies.
Public Opinion Surveys	Low	Medium	Medium	Public opinion surveys have served as a useful tool in articulating citizens' concerns (e.g. Bangalore scorecard).
Financial accountability	Low	Low	Medium	Appropriate when democratic accountability and a substantial accounting/bookkeeping infrastructure with some integrity are in place.
Parliamentary oversight	Low	Medium	Medium	Parliamentary oversight can be helpful but parliamentary micro-management not an effective form of governance.
Reducing Public Employment	Medium	Low	Low	May reduce opportunities for corruption.
Decentralization	Medium	Low	Low	May improve accountability and may increase sense of social purpose for public officials.
Client-based civil service / Bureaucratic culture	Medium	Medium	Low	Success depends upon service delivery orientation of public service, reinforced by accountability for results.
Economic policy reform	High	Medium	Low	Reduces potential corruption by shifting decision-making to the private sector.
Media and judicial	High	Medium	Low	Allows for detection, followed by

independence, citizen participation				accountability.
Reducing Public Sector Size	High	Medium	Low	By reducing the number of government activities, officials can focus on primary objectives of the state.
Rule of law	High	Medium	Low	Essential for any progress.

Source:
Huther, J. and Anwar Shah, *Anti-corruption Policies and Programs: A Framework for Evaluation,* December 2000.

REFERENCES

Books and papers

Chetwynd, Eric et.al, "*Corruption and Poverty: A Review of Recent Literature"* (Washington DC: January 2003).

Gupta, Sanjeev et.al., *"Does Corruption Affect Income Inequality and Poverty?"* (IMF Working Paper, May 1998).

Huther, Jeff and Anwar Shah, *"Anti-corruption Policies and Programs: A Framework for Evaluation"* (World Bank, December 2000).

Indonesia Corruption Watch, *Evaluasi Kinerja Pemberantasan Korupsi KPK 2003-2007*, 2007

Indonesia Corruption Watch, *Hasil Konsultasi Publik Seleksi Calon Pimpinan KPK di 10 Kota Propinsi*, , 2007

Pope, Jeremy (Editor)*, "Pengembangan Sistem Integritas Nasional, (Jakarta: PT Pustaka Utama Grafiti,)*, p. 226.

Tony Kwok Man-wai, *"Formulating an effective anti-corruption strategy-The experience of Hongkong-ICAC"* (makalah tanpa tanggal dan tahun).

Regulations

Law on Corruption Eradication Commission No. 30 Year 2002

Performance Indicators of Attorney Office Across Indonesia, 2005

Website

http://www.okezone.com/index2.php?option=com_content&task=view&id=13853&pop=1&page=0&Itemid=67)

(http://www.tkpkri.org/id/index.php?option=com_content&task=view&id=109&Itemid=2

)
(http://www.freelists.org/archives/ppi/08-2006/msg00362.html)

http://www.kpk.go.id/modules/news/article.php?storyid=1328

http://www.freelists.org/archives/ppi/09-2006/msg00083.html

http://www.kpk.go.id/modules/news/article.php?storyid=2064

www.bi.go.id

www.ti.or.id

PROFILE OF ICW

Eradicating Corruption with the People

Indonesia Corruption Watch (ICW) was established on June 21, 1998 in the midst of reform movement to realize post-Soeharto government that is democratic and free from corruption in order to reach public welfare. The idea of the institution's establishment was initiated by several community figures who were concerned about social, economic and political problems that were caused by New Order Kleptocracy, which threatened the survival of Indonesian society. The 1997 economic crisis, which almost paralyzed the life of Indonesian society, gave valuable lessons to the nation on the expansive corruption practices in all levels of governmentand businesses.

New Order Kleptocracy was based on the centralistic political and economic powers in the hands of the President in the absence of transparency and public accountability. Conspiracy between political and business elite, supporting by loyal military force, brought the New Order Kleptocracy in power for 32 years. Soeharto's power went with barely any control, as DPR was subordinated and civil society was made so powerless by unparalleled regimentation. Division of power did not take place and therefore there checks and balances in the relations between the state and civil society was stuck.

Although President Soeharto has no longer been in power since May 1998 and Indonesia entered a democratic government phase, corruption is not declining by itself. The conspiracy between business and politics that has been successful in controlling almost all national economic and political resources will continuously seek for new patterns of relationship that fit the new situation of political fragmentation following Elections 1999.

The relations between businesses and their political patronage were no longer permanent and have suffered greatly from the fragmentation in the aftermath of Soeharto era. Nevertheless, the major cause of corruption rooted in these relations cannot be overcome simply by institutional change under the framework of good governance promoted by multilateral donor agencies. Fundamental changes in the form of more balanced relations between state, society and market are necessary.

As the main perpetrators or corruption are the government and private sectors, while the people are left as the main victims, ICW therefore believes that anti-corruption movement needs to be based on people's empowerment to provide balance to the conspiracy of political elite and business. In that regard, our mission is empowerment of public participation in controlling the government and public policy making in order to fight for the realization of political, legal, economic and bureaucratic systems that are free from corruption and based on social justice.

Indonesia Corruption Watch
Jl Kalibata Timur IV/D No 6 Jakarta Selatan
Ph.: (021) 7901885, 7994015 Homepage : http//www.antikorupsi.org
Fax: (021) 7994005 E-mail : icw@antikorupsi.org,
icwmail@indosat.net.id