USING VIABLE SYSTEM MODEL TO ANALYSE INDONESIA'S ANTI-CORRUPTION STRATEGY

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ABSTRACT

Indonesia's fighting against corruption has a serious problem in relation to how to make all the institutions working together under a strong model. This paper uses the Viable System Model as a framework model for Indonesia's anti-corruption measures. The model is used by author to understand the Indonesian anti-corruption parties' measures in a single model, understanding the problems inherited to the agencies and giving solutions for them to improve anti-corruption measures for the effectiveness of the achievement of better Corruption Perception Index for Indonesia.

BACKGROUND

The fight against corruption has been a serious discussion among state parties. After the Transnational Crime Convention[1] was ratified, the state parties agreed to develop an international convention against corruption in 2003. The convention agreed that five areas shall be improved to combat corruption widely. They are preventive measures, criminalization and law enforcement, international cooperation, asset recovery, technical assistance and information exchange[2].

Corruption has serious consequence to the society. Corruption is considered as the one of the causes of the economic disasters, political instability, poverty, undermining the quality of life of the people, and causing financial losses to the economies. Global Financial Integrity (GFI) shows that a vast amount of money squeezed from developing countries flowing to the developed ones. The transferred dollars are hard to be recovered due to the complicated nature of criminal code regarding the beyond reasonable doubt of evidence based verification, the

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[1]   United Nation Convention Against Trans National Crime, 2000.

[2]   United Nation Convention Against Corruption, 2003.

complexity of the process of the international cooperation, and the other problems within the criminal justice system that undermine the capacity of the governments to bring back them to the nations of origin[3].

Indonesia has developed a serious system to combat corruption. Since the KPK's establishment in 2004, the nation has become aware that corruption could be deterred by serious enforcement supported by adequate law and well developed technology. The new organization KPK has marked a good number of success stories for corruption enforcement since 2004 until today. Many senior public officials have been prosecuted by the Agency. Some of prominent persons who had previously never been able to be caught red handed could be arrested by KPK. KPK produced the highest amount of cases in 2016 with 58 suspects in 17 sting operations[4].

KPK has developed its capacity on investigation rather than prevention[5]. KPK is supported by some political parties to increase its quantity of investigators[6]. The increasing number of investigators assumed to be increasing the capacity of KPK to proceed corruption cases to deter corruption[7]. From the investigation perspective, an officer "in power" at the KPK prefers to source its internal investigation rather than getting from the Police. Police investigators are easier to be interfered rather than the internal officers. Several times police seconded investigators were withdrawn when they were still investigating some important cases. Procuring its internal investigators shall be the solution for the problem[8].

The proposal has given challenges because of the KPK nature as trigger agency to curb corruption in Indonesia. At the early development, KPK is considered as the solution for developing the existing agencies dealing with corruption. the KPK reason of being is because of the ineffective of the prior law enforcement agencies. KPK role is not to take over all the authority to investigate and prosecute corruption but for boosting the other law enforcement agencies to increase their capacity[9].

The success of KPK prosecution is now being questioned by the Parliament whether the effectiveness of KPK to deter and prevent corruption. KPK actions are deemed not yet effective to reduce red tape at the bottom level[10]. The nature of KPK to work at the top level, targeting "the big fish"[11], and the limited resources to tackle huge area of Indonesia, i.e. KPK does not have any branch at regionals, are considered the causes of KPK's ineffectiveness to curb corruption in Indonesia[12]. Despite its success to prosecute high profile people, KPK has not been able to shift the behaviour of the people in power[13]. Indonesia's ranking

3   Global Financial Integrity, "Illicit Financial Flows to and from Developing Countries : 2005-2014", Global Financial Integrity, 2017, page 25.

4   KPK (2017), "Annual Report 2016", The Corruption Eradication Commission (KPK), page 71

5   Rahmi Novrieza, *Penindakan KPK Lebih Menonjol Ketimbang Pencegahan*, hukumonline.com, 27 Juli 2017, <http://www.hukumonline.com/berita/baca/lt5438061e1fead/penindakan-kpk-lebih-menonjol-ketimbang-pencegahan>.

6   Syamsuddin Didi Irawadi, *Meningkatkan Jumlah Penyidik Jauh Lebih Berguna Daripada Pansus Angket KPK, 27 Juli 2017,* <http://www.demokrat.or.id/2017/06/meningkatkan-jumlah-penyidik-jauh-lebih-berguna-daripada-pansus-angket-kpk/>.

7   Asril Sabrina, *Tahun ini KPK akan Rekrut 150 Penyidik,* 27 Juli 2017, Kompas.com, <http://nasional.kompas.com/read/2016/07/25/07053111/tahun.ini.kpk.akan.rekrut.150.penyidik>.

8   Kandi Rosmiyati Dewi, *ICW: Novel Baswedan Ingin KPK Tak Tergantung Polri, cnnindonesia.com, 27 Juli 2017,* <https://www.cnnindonesia.com/nasional/20170327112642-12-202959/icw-novel-baswedan-ingin-kpk-tak-tergantung-polri/>.

9   Republik Indonesia Law Number 30 year 2002 concerning the Corruption Eradication Commission, general elucidation.

10   Crossin Corene, Brown Martin, and Norris Steve, "Anti-Corruption in Indonesia", Control Risk, 2013, Page 4.

11   Roadmap KPK 2007-2011: Towards More Effective Corruption Eradication, Page 6

12   Jasin, Mochammad (2010), "The Indonesian Corruption Eradication Commission", *Article 2 March 2010 Vol.9 No.1* Page 20.

13   Dick Howard, "Statistics, Half-Truths and Anti-Corruption Strategies", Centre for Indonesian Law, Islam and Society Pol-

in the Corruption Perception Index, even though always increases every year, has not significantly met the target to be close to its neighbourhood countries[14].

This paper promotes the Viable System Model as a framework to understand how the parties are involved in anti-corruption measures in Indonesia. By knowing the map of the fieldwork of the agencies then there shall be solutions for the agencies to work more effective through the development and monitoring of the real significant roles of each agency to curb corruption in Indonesia.

Understanding the Model
1. The Requisite Variety Theory

The theory says that the turbulent environment shall be faced by a complex organization or collection of organizations. Crimes have their complexity, and they organize their activities to adapt with the new dimension of environment. To be able to deter and prevent crimes, the law enforcement agencies shall be able to manage their existence to fight the crimes. The organization consists of operations activities that shall be managed to face the turbulent environment. That is why management is important to control the operation activities so that they will meet the complexity of the environment[15].

2. The Viable System Model Theory

The model consists of five systems. The first system is the system that is constructed from operational elements (system 1). The second system is coordination (system 2). The third is the control that consists of group activities for managing and allocating resources to the systems and the

audit division for monitoring the result of the operational elements (system 3). The fourth is intelligence system, which has functions to understand the circumstances of the organization today and in the future (system 4). The fifth is the identity system that has a function as the reason of being of the entity (system 5). The model tries to identify the functions of every sub entity of the whole system. The functions are categorized to five systems that has each has a primary role than other systems[16]
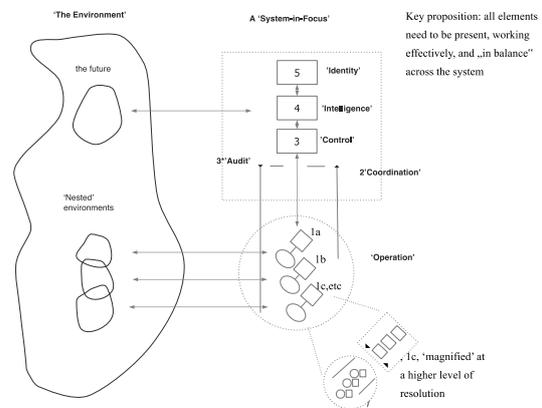

Figure 1: Understanding the Viable System Model Adopted from Brocklesby John, *"Thinking Systemically About Multi-Agency Collaboration – Organising Against Organised Crime"*, *Working Paper Series 05-11, 2009*

3. The Implementation of the Viable System Model Theory on the Law Enforcement Agencies Context

a. The State as the effective authority to control, prevent and deter crimes has its owned strategy to deal with crimes. The strategy is enacted trough the laws for the establishment of institutions for criminal matter. States usually have Police, Prosecution Service, Court, Probation Office and Bar Association dealing with criminal matters[17]. Some states even own some other agencies for

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icy Paper, 2013, Page 14.

[14] Maail Glenn, "Open Data and the Fight Against Corruption in Indonesia", Transparency International, 2017, page 12.

[15] Brocklesby John, "Thinking Systematically about Multi-Agency Collaboration-Organising Against Organized Crime" *Working Paper Series 05-11*, page 8.

[16] Brocklesby John, "Using Systems Modelling to Examine Law Enforcement Collaboration in the Response to Serious Crime", in A. Masys (ed.) *Applications of Systems Thinking and Soft Operations Research in Managing Complexity, Advanced Sciences and Technologies for Security Applications,* 2016, page 17.

[17] Tak Peter J.P., "The Dutch Criminal Justice System", Wetenshappelijk Onderzoek-en Documentatiecentrum, Denhag, 1999, page 15-27.

investigation other than police.

b. In the new era of enforcement the states decide to establish new strategies to more effectively prevent and deter crimes. They are not relying on enforcement only but also how to understand the causes of crimes and try to interfere with them as much as possible so that the crimes could be reduced effectively[18]. The crime prevention usually is done by the Police, but some states consider that several crimes could not only be addressed only by ordinary strategies. The UK for example establishes SOCA in 2006 and then transformed the SOCA[19] to National Crime Agency (NCA) for preventing, investigating and prosecuting crime[20]. Serious Fraud Office (SFO) in the UK was also built for investigating serious fraud cases for the interest of the state[21]. In the New Zealand, the Police established Organized and Financial Crime Agency of New Zealand (OFCANZ) to address the grave issues of organized crime[22]. There is also the NZ SFO in addressing financial crimes[23].

c. In the corruption context states have their owned positions. Some states establish new agencies to address the corruption while some other use the ordinary law enforcement agencies but also establishing units that could be focusing on the corruption issues. Hong Kong, Singapore, and Malaysia are three countries establishing independent agencies for curbing corruption[24]. Some states use a multi-agencies strategy for combating corruption such as the UK which has established International Corruption Unit within the NCA, which shall cooperate with other UK law enforcement agencies [25].

d. Indonesia has its owned mixed strategy. The Law allows for three agencies investigate corruption. They are the Police, KPK, and AGO. The prosecution is still centralized in the AGO. An interesting aspect is that KPK is mandated to prosecute corruption although the prosecutors shall be gained from the AGO. However, Law Number 30 Year 2002 mandates that KPK as the central agency to coordinate prevention and repression in combatting corruption in Indonesia.

Indonesia Anti-Corruption Measures in a Viable System Model

Indonesia has anti-corruption laws for three investigation agencies, and one prosecutor agency. The authority to investigate corruption is given under three separate laws. The first one is Law Number 2 year 2002 concerning the Indonesian National Police. The police are mandated to investigate all crimes including corruption. The second law is the Law number 30 Year 2004 concerning The Attorney General Office. The prosecutors could investigate some special and serious crimes incorporating corruption. The third agency is

18   United Nation on Drugs and Crime, "Handbook on the Crime Prevention Guideline: Making them work", United Nations Publication, Vienna, 2010, Page 9

19   Serious organised Crime Agency, "Annual Report and Accounts 2013/2014 (1 April 2013 to 6 October 2013)", Williams Lea Group on behalf of the Controller of Her Majesty's Stationery Office, London, 2014, Page 5.

20   United Kingdom Crime and Courts Act 2013 Chapter 22, Part 1.

21   United Kingdom Criminal Justice Act 1987 Chapter 38, Part 1.

22   New Zealand Police, *National Organised Crime Group*, police.govt.nz, 26 Jul 2017, <http://www.police.govt.nz/about-us/working-police/police-groups/national-organised-crime-group?nondesktop>

23   New Zealand Serious Fraud Office Act 1990.

24   Quah Jon S.T., "Curbing Corruption in Asian Countries: The Difference between Success and Failure", *The 4th International Conference on Public Management in the 21st Century opportunities and Challenges 22/10-23/10/2010,* Page 5.

25   HM Government, *UK Anti-Corruption Plan*, the Information Policy Team the National Archives, London, 2014, page 25.

the Corruption Eradication Commission (CEC) or the KPK. The KPK can investigate and also prosecute corruption according to Law Number 30 Year 2002 concerning the Commission on Corruption Eradication.

Other than investigation, there are prevention measures that can be conducted by the three agencies as well as other agencies in each area of authority. For example, The Board of Financial and Development Supervision (BPKP) and Internal Inspectorates within each government agency are mandated to do financial crime prevention[26].

The Law Number 30 Year 2002 mandates KPK as the leader for coordination and supervision toward the actions on the repression area (investigation and prosecution) of corruption cases, as well as the prevention area. The consequence of the law is that the Police and AGO shall be following the KPK on doing their activities on corruption prevention and repression. Also, the other agencies are mandated to prevent corruption in their pertinent areas.

From the laws, we make the arrangement on how the agencies shall be put on the viable system model.

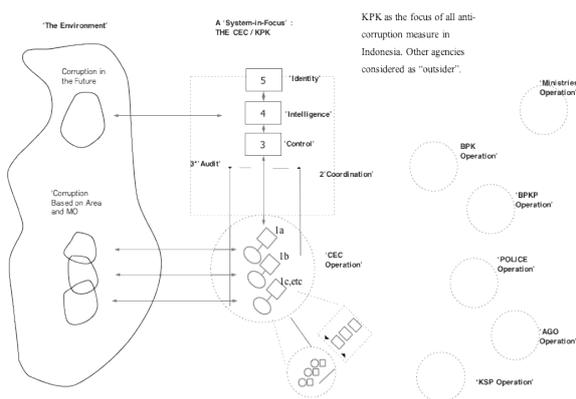**1.** The KPK as an independent single organization

Figure 2: "KPK as Independent Single Organization" Adopted from Brocklesby John, "Thinking Systemically About Multi-Agency Collaboration – Organising Against Organised Crime", *Working Paper Series 05-11, 2009*

KPK as an independent organization organizes its job itself. The KPK does not need the

[26] The Government Regulation of the Republic of Indonesia Number 60 year 2008 concerning The Government Internal Control System article 49.

other agencies to be used for their anti-corruption measures. The KPK shall develop its competency to do activities, both repressive and preventive. The persons, budget, facilities, and equipment are procured, and managed themselves. The KPK does not need the other agencies' supports to execute its functions. The other agencies conduct their functions outside the system. The only party that provides supports for conducting its function is only from the Attorney General Office, since the KPK cannot produce their prosecutors by themselves according to the Law.

a.   System 1:
1) Prevention
Preventive measures are conducted by the Department for Prevention which consists of four directorates. The directorates are the Public Education Directorate, the Wealth Report Directorate, the Gratification Directorate, and the Research and Development Directorate

2) Repression
Repressive measures are executed by the Department for Repression but also involves one directorate under the Internal Supervision and Public Complaint Department. The directorates involved in deterring corruption are Public Complaint Directorate, Pre-investigation Directorate, the Investigation Directorate, and the Prosecution Directorate

3) Coordination and Supervision
KPK has initiated to develop a unit for coordination and supervision under the Department for Prevention and the Department for Repression. Their responsibility is to supervise the agencies or department within government agencies that are responsible for corruption

prevention or investigation.
All the three functions are included in the system 1 of the viable system model at the operation level.

b.   System 2
The coordination function has three levels:
1) The first level is the operation level. They are the investigators, and prosecutors at the directorates. The coordinator shall be the director of each directorate.

2) The second level is the deputy level. for example, the deputy for repression shall coordinate the three directorates for pre-investigation, investigation, and prosecution. The deputy for prevention shall coordinate the directorate for Wealth Report, Education, and Gratification.

3) The third level is the commissioner level. The commissioners shall coordinate the strategy for prevention and repression so that the both departments can simultaneously curb corruption.

c.   System 3 (control and audit)
At the organizational level, the resource allocation is assisted by the Secretary General which is assisted by the Legal Bureau, the Human Resource Bureau, and the Financial Planning Bureau.
The audit level is conducted by the Internal Supervision Directorate.

d.   System 4
Intelligence functions are conducted by the Information and Data Department.

e.   System 5
The identity function is conducted by the Commissioners. the Board of Commissioners gives direction to the Commission for four years ahead, that is, how the Commission shall conduct its strategies on prevention and repression to reduce corruption and increasing the Corruption Perception Index (CPI).

2.   The KPK's role in the multi-agency perspective to combat corruption

From the VSM perspective, KPK is becoming the reason of being for anti-corruption measure in Indonesia (System 5), coordinator for preventive and repressive measures conducted by enforcer and non-enforcer entities (system 2), executor on the operational level as the other agencies did (system 1), controller and auditor for other agencies (system 3), and intelligence leader for anti-corruption measures (system 4). KPK is a system for whole system in anti-corruption measures in Indonesia.

KPK shall involve the other agencies officers to join KPK process of coordination, audit, control, and intelligence. There is a problem raised when the KPK inviting the other agencies officers, regarding the independence of the officers. To secure the independence of KPK, the selection process to get new officers has been the solution since the beginning of the establishment of the KPK.

As multi agency approach, the KPK shall be the centre of anti-corruption measures in Indonesia. This is the ideal position. KPK has mandate for coordinating and supervising anti-corruption measures by all agencies in Indonesia. KPK shall implement its function as the coordinator and supervisor of the other agencies conducting prevention and repression. The KPK shall get the officers to investigate, prosecute, and prevent corruption not only from its owned permanent officers but also using the other institutions' officers. This model was actuated during the first and second periods of the KPK Commissioners.

Other than its owned investigation, KPK also conducting coordination among

the other agencies mandated to investigate corruption. This task is not easy since the investigators of the other agencies living in their respective agencies have their owned system, procedure, human resource management, and policies. KPK shall be able to manage relation to the other agencies to assure that the working on repression and prevention could be understood by the leaders of the agencies.

For example, on the context of Police and AGO, to understands the nature of the two coordinated and supervised agencies, the strategy to procure officers from the police and AGO is important for KPK. The officers understand the culture of their prior agencies and the difficulties inherited. The officers position in KPK as coordinating officers could be used for directing the investigation of the police and AGO politely and smoothly. Using the officers from the two agencies shall be considered as the involvement of the agencies and systematically increase the capacity of the agencies to combat corruption.
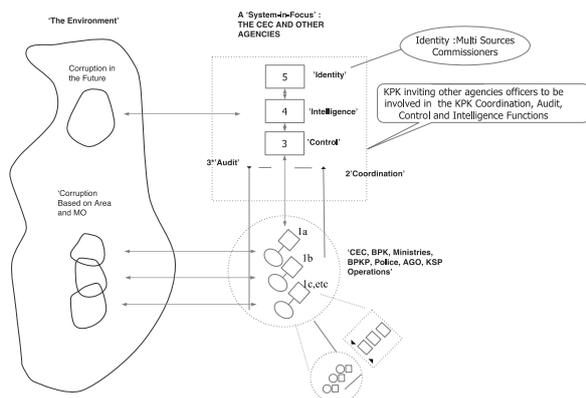

Figure 1: "KPK role in Multi-Agency Perspective" Adopted from Brocklesby John, "Thinking Systemically About Multi-Agency Collaboration – Organising Against Organised Crime", *Working Paper Series 05-11, 2009*

Conclusion

The viable system model analysis is important to understand the nature of anti-corruption measures in Indonesia. Indonesia anti-corruption model has been transformed

to multi agencies since the establishment of the KPK in 2002. The VSM could be a model to integrate all measures conducted by all institutions dealing with corruption in Indonesia.

There are two alternatives of the VSM implementation for KPK. The first choice is by putting the KPK as a single independent institution which in the long range shall procure its officers permanently and do not get the officers from the other agencies. The second preference is how to establish KPK which consists of multi-source officers from government agencies and non-government sources, not just on the commissioner level.

The VSM model gives a new perspective how to address corruption in Indonesia. From the model, KPK has the central role as the coordinator of all anti-corruption measure in Indonesia. KPK as the central role shall take action to develop its coordination and supervision department so that could take account on integrating all resources owned by the other organizations in the area of prevention and repression. The results shall be the success of the agencies to root corruption through the increase of the Corruption Perception Index of Indonesia significantly.

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