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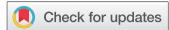
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13 Addressing Corruption in Post-Soeharto Indonesia: The Role of the Corruption Eradication Commission

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2 ABSTRACT

Anti-corruption became one of the top priorities in post-Soeharto Indonesia, with democratisation, market liberalisation and institutional anti-corruption frameworks pursued as means to enhance transparency and accountability in public governance. A core component of these efforts was the establishment of a powerful anti-corruption agency, the Corruption Eradication Commission (KPK). This article assesses the effectiveness of the KPK, using evidence from two contrasting cases to identify factors that facilitated or impeded its ability to successfully investigate, prosecute and thus contain high-level corruption. The analysis highlights the threats to the KPK posed by resilient networks that were able to reconsolidate and resist anti-corruption efforts in post-Soeharto Indonesia. However, it also identifies countervailing social forces that emerged in the context of democratisation – in particular, an active civil society and a largely free press. While these supportive pressures from civil society could not fully counter the attacks on the KPK, they were able to prevent its marginalisation in the two major cases examined. Overall the KPK's success in addressing high-level corruption is shown to be dependent on the interaction of political dynamics, interests and power relations, with no guarantee that anti-corruption forces will prevail in future cases.

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corruption; anti-corruption agency; vested interests; civil society; democratisation; market liberalisation

In 1998, with the collapse of the authoritarian New Order of Soeharto – a regime that had become renowned for its “crony capitalism” and rampant corruption – the Indonesian government embraced twin reforms of democratisation and market liberalisation. There was an expectation among the people that these reforms would strengthen accountability and transparency in governance and improve business competition, thereby contributing to a reduction in corruption. The end of the New Order thus ushered in high expectations regarding cleaner government. As key measures to reduce corruption, the Indonesian government introduced new anti-corruption institutional frameworks including new legislative measures and a powerful specialised body, the Corruption Eradication Commission or *Komisi Pemberantasan Korupsi* (KPK).

The KPK has been described as the most powerful and independent anti-corruption agency in Indonesia's history (Butt 2011, 34; Indrayana 2012, 156; Schutte 2012).

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Established under a *lex specialis* (Law 30/2002), the KPK was mandated to implement the tasks of: co-ordination and supervision of authorised anti-graft agencies; the examination, investigation and prosecution of corrupt activities; the prevention of future corruption; and the monitoring of state officials and government programmes. In order to implement its mandates, the KPK was equipped with extraordinary powers including: wiretapping and foreclosing assets without court permission; requiring banks and other agencies to provide confidential data on financial transactions and other matters; investigating elite state officials without prior consent of the president; and taking over corruption cases from the police and prosecutors due to apparent “unwillingness” and “inability” of the ordinary anti-corruption agencies. In 2018 the KPK had 1,557 employees and an annual budget of around US\$90–100 million. Some progress in tackling corruption has been made and many “mega” corruption cases involving so-called big fish have been targeted since the establishment of the KPK, but the factors that assist and/or hinder its work are complex. For example, its institutional design leaves it highly dependent on investigators from the police and prosecutors from the Attorney General Office (AGO), and it attracts variable levels of support from political elites, civil society and the media.

This article draws on evidence from two major cases – the 2013–2014 beef import case and the Century Bank scandal that commenced in 2008 – to examine the KPK’s anti-corruption efforts in post-Soeharto Indonesia. It explores the relationships between democratisation and marketisation and the evolving power dynamics around corruption control. These major cases also identify the potential of emerging social forces such as civil society and the media to counter the power of corrupt elites and assist in corruption control. The aim of the article is to assess the forces impacting on the KPK’s efforts within the broader contexts of democratisation and marketisation, the re-emergence of a nexus of vested interests, and developing forms of civil society and media activism.

Understanding the Political, Economic and Institutional Context of Corruption

The establishment of a consolidated democracy alongside a liberal market economy is commonly argued to provide crucial underpinnings for improving public accountability and thus for controlling corruption in conjunction with specific anti-corruption measures (see, for example, Jaha and Su 2012; Treisman 2000; Graeff and Mehlkop 2003). Despite such claims, there is little evidence of a causal connection between the adoption of democracy, market liberalism and institutional reform, on the one hand, and the effective eradication of corruption on the other. In fact, reform processes that fail to anticipate the complexities of institutional behaviour are likely to produce complex and contradictory outcomes that may pose threats to anti-corruption efforts.

From a critical political economy perspective, both market-based and institution-based approaches may fail to anticipate the complexity of political configurations within post-reform transitions (see, for example, Robison and Hadiz 2004; Winters 2011). Adopting a structuralist perspective, these authors argue that in a post-authoritarian environment the instruments and processes of reform take time to alter the power-sharing arrangements that benefited old politico-business interests, thus leaving space

for corrupt forces to re-group and operate as “new but old” players dominating the newly reshaped polity. While these entrenched interests are likely to be heterogeneous and fragmented during transitions, their convergence can result in a powerful coalition of vested interests representing the politics of wealth defence (Hadiz and Robison 2013, 56; Winters 2013, 12). Such coalitions may use legal or illegal channels to hinder reforms and resist anti-corruption initiatives. Moreover market liberalisation, adopted with the goal of enhancing economic growth, can provide opportunities for the intensification of corruption, bribery and other illicit enrichment practices, thereby deepening social-economic inequalities and injustice (Seligson 2002, 430; Robison and Hadiz 2004).

Pluralist and modernisation scholars and other defenders of neo-liberalism claim that these paradoxes are temporary and arise from rapid changes and will eventually be overcome as economic liberalisation is deepened and the rational functioning of the marketplace becomes embedded (Dahl 1998; Liddle 2013). For these scholars, poor outcomes from market reforms are seen as arising from inappropriate policy choices, partial implementation of market reforms, underdeveloped regulatory institutions, lack of state capacity or weak civil society. In this view, to some extent, serious corruption in a post-reform era is regarded as an unfortunate feature of transitional attempts to deepen political and market freedoms. This view argues that these paradoxes can eventually shift towards more benign outcomes activated by freedom of choice and action of citizens.

Not surprisingly, political economists argue that such negative effects are not merely an unfortunate “intrusion,” but reside in the predatory power relations and politico-business forces which survive and thrive under neo-liberal reform (Hadiz 2013, Hadiz and Robison 2013; Winters 2013). From this perspective, political and economic reform programmes eventually result in illiberal outcomes in which the forces of private or corporate wealth accumulation re-attach to political authority. This situation opens avenues for previously entrenched interests to reconsolidate their power and their capacities to misappropriate benefits within the new economic and political circumstances and potentially to infiltrate pro-reform blocks in order to weaken anti-corruption reform from within. This tendency can cause much uncertainty and disillusionment, and, most importantly, put at risk the successful implementation of corruption control measures and the viability of anti-corruption agencies.

The notion that vested interests can re-establish and negatively impact anti-corruption reform is not just a structuralist position. Several authors have identified the ways in which vested interests can impede anti-corruption efforts. These include: creating technocratic incompetence to erode the power of anti-corruption reform policies (World Bank 2000; Graycar and Prenzler 2013; Krueger 1993, 92); creating an uncertain business climate and undermining the capacity and legitimacy of government (Rose-Ackerman 1999; Geddes 1991, 389); creating political resistance and bureaucratic barriers to the legal policy instruments (Tangri and Mwenda 2006; Collier 2002); weakening political will to address corruption (Brinkerhoff 2000, 246); and also by co-opting state instruments such as the democratic governance machinery and anti-corruption institutions to weaken reform and resist anti-corruption efforts (Bologaita 2010, 19). In sum, where corrupt vested interests re-establish their political



and economic influence within the newly democratic system, their presence can become a pivotal factor in determining the success or failure of anti-corruption agencies.

Theorisation about the capacity of anti-corruption agencies to deal with vested interests has included a focus on the evolving dynamics of civil society and independent media. Again, however, a tension between neo-liberal and structuralist perspectives is evident. Numerous studies on anti-corruption policies have argued that the negative influence of politico-bureaucratic and economic vested interests will be limited when the political-administrative system can reinforce political pressures to challenge vested interests (Haarhuis and Torenvleid 2006; Rose-Ackerman 1999; Geddes 1991). This view is conceptually close to modernisation theories, including the democratic transitions literature (O'Donnell, Schmitter, and Whitehead 1986) and approaches to social capital (Putnam 1993; Rothstein 2011). In questioning the modernisation perspective, structuralist scholars suggest that social and political anti-corruption coalitions, forged by emergent civil society and media forces under democratisation, are likely to be disorganised, dispersed and not sufficiently powerful to challenge the coalitions of corrupt vested interests.

An intermediate approach that seeks to combine insights from the two schools mentioned above can be found in analyses of Aspinall (2013a; 2013b) and Mietzner (2012). They argue that although power structures can be reconstituted by “new but old” corrupt forces, anti-corruption coalitions of well-informed citizens in a vibrant civil society and informed by an independent media can also be potential forces for change (Aspinall 2013a, 237). In addition, Aspinall (2013b, 106) also argued, although such groups are typically fragmented and impermanent, they can nevertheless challenge, frustrate, or even to some extent conciliate with, a powerful nexus of corrupt vested interests. In short, the limited capacity of democratisation, market liberalisation and institutional reform to establish effective anti-corruption mechanisms may not only facilitate the reconsolidation of vested interest groups but may also stimulate the emergence of countervailing pressures in civil society nurtured under a more open environment. These opposing forces may interact through a complex dialectic that determines whether the new anti-corruption agencies will, as Moe (2015, 297) has it, survive and succeed or be weakened and eviscerated.”

The extent to which the opposing forces depicted in these theories have been influential in post-reform Indonesia deserves more comprehensive attention, as a limited understanding of the evolving power nexus and predatory influences on corruption control is likely to impede anti-corruption efforts. The complexities underpinning the KPK's capacity to successfully track and prosecute cases are yet to be analysed in detail, especially within the context of threats and challenges from political parties, the executive body, bureaucracy and from the “ordinary” anti-corruption and law enforcement institutions such as the police and AGO, which have sought from time to time to weaken the KPK's capacity, resources, independence and authority.

To investigate these issues, it is also important to understand the strengths and limitations of the KPK's institutional arrangements. While the agency has strong powers of investigation and prosecution guaranteed under Law 30/2002, the extent to which these have adequately empowered it to investigate corruption cases professionally and without outside interference is yet to be analysed in depth. Some of the KPK's design features, most particularly its mandate to prioritise co-ordination and

supervision functions to enhance the performance of other law enforcement agencies, may increase the risk of conflicts of interest and resistance in cases where the KPK's anti-graft operations target elite officials of these agencies or their allies. The KPK's vulnerabilities in this way reflect the agency's origins as a compromise that vested interests were able to influence, leading to the adoption of what Quah (2009, 6) calls a "multiple anti-corruption agencies model" for Indonesia that retained the powers of other existing law enforcement agencies.

Overall then, several factors may limit the KPK's capacity to carry out its mandate and resist vested interests. In line with the theoretical perspectives outlined above, these threats will also reflect the extent to which powerful groups opposing effective anti-corruption systems have emerged along class and sectoral lines. They have adequate capacities to set up alliances to consolidate deficiencies in the political-administrative system, especially related to anti-corruption reform policies. The extent to which the democratisation process has enhanced the capacity for expressions of support for the KPK and mobilisation against corruption will be another factor to be considered. Against this backdrop of complex and often countervailing pressures, including the limitations and strengths of the KPK's own institutional design, this article seeks to advance understanding of the KPK's capacity to address high-level corruption, and on this basis to contribute to ongoing debates over the most effective ways to strengthen anti-corruption strategies and agencies.

Researching the KPK

A combination of documentary research and in-depth interviews was employed to investigate the strengths and limitations of the KPK. A set of preliminary interviews was undertaken in 2013 with employees of the KPK and several independent parties to expand on and confirm publicly available documentary evidence and to identify suitable case studies for investigation. In order to provide a broad assessment of the KPK's capacity to address different sources of corruption, the aim was to select contrasting cases for examination, one where the agency had encountered strong resistance from powerful vested interests and one where there had been less capacity for resistance. This distinction was based not only on the level of corrupt conduct, the extent of social, political and legal impacts, and the status of relevant actors, but also on actors' capacities to co-ordinate their moves to maximise their negative impacts on the KPK. The preliminary research identified a number of key cases involving variable levels of resistance to the KPK, from which two were selected for detailed examination. A recent case relating to beef imports was chosen as an example of limited levels of resistance encountered by the KPK. A second case involved the Century Bank and provided an example of much more powerful reactions against the KPK. Together these cases revealed a contrasting range of impediments encountered by the agency, enabling observation of its capacity to respond in different circumstances.

The second stage of the research involved further documentary analysis of the two cases. To validate information gathered from the documentary sources, and to gain deeper insights into the cases, a second round of interviews in 2015 sought in-depth information from key actors and independent stakeholders. In both stages of the research, information was analysed qualitatively. In total 35 interviews with the KPK



commissioners and investigators, government representatives, case-related parties, anti-corruption activists, independent journalists, academics and policy advisors were conducted by the lead author, of which 27 produced information that has been utilised in the present analysis. Both the initial and second stage rounds of the interviews used semi-structured formats to allow diverse and detailed responses on identified key themes.

Overview of the Cases

This section provides background for the subsequent analysis by describing the circumstances surrounding each case. It identifies the relevant vested interests and the activities that attracted the attention of the KPK. Analysis of the KPK's responses is presented in the following section.

The Beef Import Case

The beef import corruption case, which took place in 2013–2014, involved allegations of corrupt conduct by the ¹⁶ president of the Prosperous-Justice Party or *Partai Keadilan Sejahtera* (PKS), Luthi Hasan Ishaq, and his associate, Ahmad Fathanah, who was accused of being the middleman collaborating directly with the executives of an import company, PT Indoguna Utama, namely the Director of Finance, Juard Effendi, and Director of Operation, Arya Abdi Effendi. They were prosecuted by the KPK in 2013 on charges of bribery in a conspiracy to obtain lucrative ²⁰ import quotas from the Ministry of Agriculture, where Minister Suswono was part of the PKS inner political circle. President Yudhoyono had assigned the position of Minister of Agriculture to this conservative religious party as part of the party coalition arrangements during the two terms of Yudhoyono's administration, from 2004 to 2014. PT Indoguna Utama's leaders realised that the coalition under the multi-party system would be somewhat unstable and that negotiated adjustments would be possible with a party-based minister, whose primary loyalty would be to his party and his party's leaders rather than to the president. Therefore, business leaders took the initiative to approach party leaders in order to influence the ministry's policies and recommendations.

PT Indoguna Utama was accused of seeking political patronage from key political figures to influence the decisions of the Minister of Agriculture, who determined the list of eligible importers and the size of their quotas. The PKS's Luthi was eventually found guilty of facilitating a corrupt arrangement between the minister and the executive of the company to increase its beef import quota. The investigation uncovered evidence that the company had promised payments to Luthi Hasan Ishaq, including funds to support party operations heading into the 2014 general election. According to the KPK, it had been agreed that once the proposal was approved by the ministry, the company would pay a "grateful-fee" worth Rp 5,000 (US\$0.40) per kilogram of the total proposed import quota of 8,000 tonnes for a total of Rp 40 billion (around US\$3.48 million) to the party's leader after the proposal was approved (KPK 2014).

The case involved actions that could have been perceived as relatively "safe" from prosecution since the funds were using state budget, which is an area tightly overseen by various state and non-state watchdog agencies (Interview, KPK senior official,

Jakarta, November 23, 2013; Interview, Abdullah Dahlan, researcher, Indonesia Corruption Watch [ICW], Jakarta, December 3, 2013). Nevertheless, the KPK pursued the case as a serious matter with adverse implications for the public good. The public good issues included reducing food security, undermining the interests of local farmers and breeders and impacts on low-income consumers' purchasing capacity (KPK 2014; Ananto 2013; Arifin 2013).

Overall the case shows the potential for a coalition of vested interests to appropriate state decision-making authority for corrupt purposes and for elite politicians to exploit loopholes to access funding for their personal or political parties' benefit. It underlines the risks and incentives associated with parties' attempts to cover their high operating expenses in a multi-party democratic system where there is limited supervision and no significant criminal and political sanctions to act as a deterrent (Badoh and Dahlan 2010; Anung 2013). The ability to "creatively" manipulate state policies in a strategic area such as the food sector – in this case for the financial gain of businesspeople benefitting from the commodity price gap between domestic and global markets – illustrates how coalitions of interests can come together for mutual gain. It suggests that corruption-based political patronage, a feature of the Soeharto era, has survived and been able to reconsolidate corrupt forces through various systems involving permits and approvals.

The Century Bank Case

The Century Bank (CB) case, which emerged in 2008–2009, involved alleged corruption in the ⁵provision and use of bank funds and particularly the protection of politically-connected depositors who had large amounts of money at risk. Those investigated included elite politicians connected to the ruling party and the president, technocrats within the Board of Governors of Bank Indonesia, major shareholders in the ailing bank as well as police and AGO. These people were accused of working in concert to pursue personal gain through actions portrayed publicly as strategies to protect the state's economy ⁴from potential calamity following the 2008 global economic crisis.

At this time Bank Indonesia, the central bank, had specified that all banks should have a capital adequacy ratio (CAR) of 8%. However, the CB was well below this level with only 2.35% (Bank Indonesia 2010; Sahrasad 2009). On November 6, 2008, Bank Indonesia controversially provided short-term liquidity assistance to CB and imposed a special surveillance classification prohibiting it from conducting transactions with any parties (Supreme Court 2014).

Further assistance for CB was considered on November 20, 2008 by the ⁴Financial System Stability Committee (KSSK), consisting of the Minister of Finance and the Governor of Bank Indonesia, with the Deposit Insurance Agency (LPS) also involved. There was concern to avoid a repetition of the 1997–1998 financial meltdown resulting from the closure of 16 small banks controlling only 2.3% of total national bank assets (Bank Indonesia 2010, 13; Basri 2013, 23). Hence, Bank Indonesia Governor Boediono considered that preventive measures for CB were much better than waiting for an actual crisis (Supreme Court 2014, 57). Meanwhile, some analysts did not believe that the ailing CB would have any systemic impacts on the national banking system due to its

small capital base and argued that it was unnecessary for the state to save it (*Kompas*, December 17, 2009; Sahrasad 2009, 164).

The situation became tense when small depositors began to withdraw their funds. In response, on November 21, 2008, the KSSK ⁴ decided to categorise CB as a “failed and insolvent bank with systemic risks,” and bailed it out to achieve 8% CAR in order to mitigate systemic impacts (Deposit Insurance Agency 2009, 56).

Public allegations of wrongdoing emerged when Vice-President Jusuf Kalla (2004–2009) claimed there was a serious problem with the process leading to the decision to salvage the CB. Kalla asserted that CB’s insolvency was manufactured by its owners, who withdrew funds to reduce its asset ratio so it would become eligible for short-term liquidity assistance from Bank Indonesia as well as bailout funds from the LPS (Aditjondro 2009, 2; *Sindonews.com*, May 8, 2014). The bank’s owners were later accused of misusing these funds to salvage their own assets and to conduct illegal transactions for politically-connected customers and ⁴ state-owned enterprises holding large deposits in the ailing bank. Kalla ordered the National Police Chief, General Bambang Hendarso Danuri, to arrest CB owners for misusing the funds injected by the government.

Political tension increased when politicians realised that the cost of the CB rescue had quadrupled. KSSK’s decision was shown to depend on incorrect calculation of the handling costs by the LPS, linked to the fall in asset values (Sahrasad 2009, 41; Bank Indonesia 2010, 48). The situation was exacerbated by discovery of numerous default assets and securities, fictitious credits and unprocessed letters of credit in the ailing bank. In addition, public allegations were made that many business actors, elite politicians, and companies belonging to politically connected business groups with large deposits had collaborated with CB owners and management to divide their money into small accounts (worth Rp 2 billion each) in order to be covered by the LPS guarantee (Supreme Court 2014; Interview, KPK senior official, Jakarta, October 30, 2015). This method was allegedly utilised by several of CB’s largest and most high-profile depositors in order to salvage large deposits. In return, these depositors allegedly provided monetary support to the ruling Democratic Party as well as to Yudhoyono’s political campaign team in the 2009 general and presidential elections (*Tempo*, July 13–19, 2009; *Kompas*, December 29, 2009; Interview, Billy Khoirudin, senior journalist, Kompas media group, Jakarta, January 5, 2015).

It was widely believed there was a secret agreement for the ²¹ government to inject a large amount of capital into the ailing bank, allowing politically connected depositors to recover their funds before the wider depositor base (*Kompas*, December 29, 2009; *Asia Times* September 17, 2009). Moreover, when the former Bank Indonesia Governor, Boediono was appointed ³¹ as the Vice President of the Republic of Indonesia (2009–2014), there was speculation that this was a political reward from the ruling Democratic Party for his pivotal role in formulating the CB bailout policy. The Democratic Party had allegedly received a huge injection of political funds, rumoured to be around Rp 1 trillion, taken from CB’s bailout funds (*Tempo*, July 13–19, 2009). Regardless of the validity of the accusations concerning Boediono, allegations regarding bailout funds flowing to President Yudhoyono’s political campaign team were later confirmed by the former Chairman of the Democratic Party, Anas Urbaningrum, who was successfully prosecuted by the KPK in relation to other corruption cases (*Kompas.com*, March 20, 2014).

In short, the bailout was depicted as a self-interested conspiracy between political candidates, CB owners and some large depositors. The interests of these political-business vested interests were then protected by high-ranking police and officials working within law enforcement agencies. These officials might have been motivated by the prospect of receiving illegal kick-backs in return for saving a number of CB's largest high-profile depositors as well as by longstanding loyalties to the political elite for advancing their careers. The complex interaction among these actors constituted a powerful nexus of vested interests across old and new power relationships that impacted on how this case evolved.

³⁴ In the following section these two cases are compared and contrasted to advance understanding of the factors that influence the level of resistance mounted against actions by the KPK. This involves an examination of the dynamics and interactions within the KPK, and between it and other actors, ²⁹ as well as the involvement of media and civil society actors.

Corruption Investigations: Variable Resistance, Countervailing Forces and Contrasting Outcomes

Both cases illustrate the capacity for vested interests to group together and resist corruption investigations in a period of democratic transition and institutional change. However, as the following analysis will show, their ability to exert influence was constrained by several factors and countervailing forces also came into play in various ways. Each case is analysed in turn, drawing out these complexities to show the forces underpinning the contrasting outcomes.

Failed Resistance to the KPK: The Beef Import Case

As noted above, the beef import case involved actors from a political party and an import company. The links between them were disguised through the actions of a powerful patron who nurtured "corrupt cells" consisting of brokers or middlemen outside the cadre structure of the PKS. In addition to providing a protective layer for an elite politician, these groups were also expected to co-ordinate various legal and illegal projects, grants and other practices that were profitable for the party and the elites. They managed all processes of negotiation, compromise and agreement with business actors as well as government officials to gain access to profitable opportunities within the state budget arena and beyond it. Since their relationships were based on reciprocity, mutual trust and loyalty within the incentive structures, the corrupt cells automatically disconnected from both the elite politician and political party in the face of anti-graft investigations in order to protect the party's reputation and moral credibility. This strategy preserved the corrupt methods involving politics and business that had flourished during the authoritarian regime (Interview, KPK senior official, Jakarta, November 23, 2013; Interview, senior KPK investigator, Jakarta, October 29, 2015).

The KPK became involved in response to numerous public complaints which led the agency to initiate investigations that uncovered what were deemed corrupt practices in the determination of beef import quotas. It subsequently made allegations that the PKS leader Luthfi was involved in corrupt activities relating to beef import quotas (KPK

2014; Interview, Ade Irawan, co-ordinator, ICW, Jakarta, January 27, 2015). These public accusations were a serious concern for PKS as considerable effort had been made to develop a strongly religious and “clean” party image. The scandal thus had the potential to become a political embarrassment that could destroy the party’s moral-religious credibility and electoral prospects prior to the 2014 election. As a consequence, PKS leaders and cadres launched vigorous counter-attacks against the KPK in a war of public opinion. Among other strategies this involved accusing the anti-graft agency of politicising its anti-corruption agenda and being a part of a global conspiracy to discriminate against the PKS as an Islamic political party (*Kompas*, 1 February, 2013; *Detik.com*, 1 February, 2013). Claims were made that the case had been fabricated by political competitors who disagreed with the PKS’s political stance and were using the anti-corruption issue as a political instrument to discipline it and tame its critical stance on some policy issues. The party also began a fierce debate on legal provisions and procedures and made claims about a conflict of interest between the PKS and KPK anti-corruption chief Abraham Samad, who had previously (and unsuccessfully) sought endorsement from the party to run for parliament. The goal of such attacks was to encourage the public to doubt the KPK’s credibility, professionalism and independence (Interview, Fahri Hamzah, PKS Deputy Speaker of the House of Representatives, 2014–2019, Jakarta, January 20, 2015; Kramer 2014).

However, the KPK was able to win this public opinion war by releasing evidence of PKS corruption prior to the election, when this would be most effective. This evidence included detailed accounts of numerous banking transactions to finance the purchase of, among other things, properties, gifts and sexual services. The strategy proved effective in turning public opinion against the PKS, which was humiliated by the material the KPK revealed. The moral and political credibility of those accused was destroyed in this process, with the media generating widespread images of the PKS party leaders’ political and religious hypocrisy (Azra 2013; *Kompas*, 4 February, 2013). A groundswell of support for the KPK and resentment towards the PKS party emerged via internet-based media such as Facebook, Twitter and other platforms. The numerous messages, status updates, information posts and wide media coverage stimulated public scepticism which in turn generated a public outcry against perceived corruption. PKS’s controversial attacks on the KPK were thus counterproductive, leading to unfavourable media coverage, which in turn resulted in a significant decrease in the party’s popularity prior to the 2014 election (Interview, Arief Zulkifli, Editor-in-Chief, Tempo media group, Jakarta, January 12, 2015; Interview, Ade Irawan, co-ordinator, ICW, Jakarta, January 27, 2015).

The PKS’s capacity to fight back against the KPK was limited by the inability of the parties involved in the beef import scandal to secure the collaboration of players in powerful agencies with direct influence on the KPK such as the police or to attract support from leading politicians. This inability to extend the coalition of vested interests to include other powerful actors reflected the poor standing of the PKS following these allegations. Indeed, many other political actors kept their distance from the party. The absence of such close ties left the PKS isolated, hence there was little opportunity to influence the KPK’s internal processes. Heading towards the election, all parties were sensitive about their public image seeking to avoid a confrontation with the KPK. This left the PKS in a precarious political position. It could not mobilise support from elite

actors and it could not directly respond to or challenge the KPK's anti-corruption operation, which had been supported by the increasingly well-informed political society, as this would have been politically damaging. The KPK was thus in a morally and politically strong position when dealing with PKS. The latter's political attacks generated public resentment and disappointment with the party's perceived moral and political hypocrisy. Thus, the media and public support, in combination with the contingencies associated with an electoral contest, played an important role in the KPK's battle to secure convictions.

KPK was able to successfully prosecute the case and the leading figures were convicted of bribery and money laundering. The State Court (*Tipikor*) sentenced Luthfi Hasan to a 16-year jail sentence and a fine of Rp 1 billion – a sentence that was increased by the Supreme Court when Luthfi appealed. The Supreme Court (2014) increased his sentence to 18 years and revoked his political rights in the future. However, the KPK was not able to prosecute the companies involved because at the time the Criminal Code or *Kitab Undang-Undang Hukum Pidana* (KUHP) only recognised people as the subject of prosecution, not corporations. This was subsequently changed when the Supreme Court issued regulation No.13/2016.

Strong Resistance and Constrained Investigation: The Century Bank Case

In contrast to the beef import corruption case, the CB case involved multiple actors across various levels of government and business and was apparently orchestrated by powerful actors in the centre of power. Shared interests in securing the benefits of corruption, maintaining the honour of their home institutions and protecting their political reputations, made this nexus a powerful force against the anti-corruption agency. In this case, the KPK was faced with high-profile actors with strong political and legal powers – actors who could potentially have mobilised the state instruments and authority to discredit the KPK and its leadership and shut down the organisation itself.

The KPK's vulnerability reflected its design features noted earlier, in particular its close ties with other law enforcement agencies like the police investigators and AGO prosecutors. Moreover, Article 32 (2) of the Law establishing the KPK provided space for the ordinary law enforcement agencies to charge the KPK's leaders, investigators or employees as suspects. This was successfully exploited to intimidate the KPK and remove top officials from their strategic posts at the agency in order to halt, or at least impede, its investigations (Interview, Denny Indrayana, Vice Minister of Law and Human Right, 2009–2014, Jakarta, January 15, 2015; Butt 2011, 95). Bolstered by internal confidence in its powerful institutional design led to KPK under-estimating how these external forces could exert power over it (Interview, KPK spokesperson, Jakarta, February 7, 2015; Interview, senior KPK investigator, Jakarta, October 29, 2015).

The KPK's vulnerability was evident when it conducted preliminary investigations in 2009, following the allegations of wrongdoing by CB management and its high-profile depositors. This investigation uncovered evidence of bribery in a phone conversation between one of the CB's largest depositors, cigarette tycoon Budi Sampoerna and the head of the Criminal Investigation Department of the National Police (*Kabareskrim*), Commissioner General Susno Doudji. This generated strong reactions, with senior police, supported by the AGO, using Article 32 (2) to disrupt the agency's institutional



decision-making system and allegedly fabricating evidence as a basis for arresting three KPK leaders during 2009 (Butt 2011, 97; von Loubke 2010). These interventions successfully halted the KPK's preliminary investigations and it was not able to further unravel the CB case until the political pressure in parliament was strongly in favour of supporting the KPK to uncover the case.

Of crucial importance in this case was the Constitution's placement of the police and AGO as ordinary law enforcement agencies under the president's jurisdiction. This potentially politicised these agencies, allowing them to be used as powerful tools to fight against actors posing risks of political damage; in this case, this included the KPK. In addition, both police and the AGO retained some of their pre-reform reputations as harbouring corruption and being intolerant of criticism, and they have on occasions been inclined to resist, or even counterattack, the KPK (Butt 2011, 120; Interview, KPK senior official, Jakarta, February 6, 2015; Interview, Zainal Arifin Mochtar, Director of Anti-Corruption Studies Gadjah Mada University, Yogyakarta, January 17, 2015). The KPK's susceptibility to attacks from such powerful actors was evident in the CB case, as explained by a KPK senior investigator (Interview, October 29, 2015):

At the beginning of 2009, when KPK was going to investigate the Century Bank, there was a rumour spread among us that in the next year, the KPK leadership would be left with one commissioner only. The truth of the rumour indeed could not be confirmed, but the facts during 2009 seemed to confirm it. During 2009, three of five KPK leaders were named as suspects by law enforcement agencies. If the rumour was true, the counterattack action against KPK might have long been prepared and KPK's weaknesses might have been researched for a long time. When the Century Bank case involving senior police began to be investigated by KPK, then it was used as a precise reason to attack KPK.

The KPK had limited power to deal directly with the actions of this strong coalition of vested interests and thus needed support – ideally from the top levels of government. However, President Yudhoyono, who as the political and governmental leader and the commander in chief in the war against corruption might have been expected to protect the KPK, initially remained silent, leaving the situation to evolve without intervention. This was seen by some as a face-saving political strategy, avoiding direct involvement with political turbulence and letting elite conflicts play out in the arena of public opinion (Interview, Anies Baswedan, member of the president's fact-finding team – the Group of Eight – to investigate KPK criminalisation, Jakarta, November 22, 2013; Interview, KPK senior official, Jakarta, November 23, 2013; Interview, Komarudin Hidayat, member of the president's fact-finding team – Group of Eight – to investigate KPK criminalisation, Jakarta, November 22, 2013). The lack of direct political support from the president illustrates that the KPK had no guarantee that political leaders would stand behind it; indeed, politicians will have other loyalties that stand in the way of supporting effective anti-corruption.

There was, however, another avenue of support for the KPK – the mobilisation of public opinion. In fact, the agency owes its survival in the face of a fierce onslaught from vested interests in the CB case to the actions of independent media and elements of civil society. Collaboration among public figures, academics, student organisations and anti-corruption activists⁴ across the country who were increasingly frustrated with the situation gradually formed a large-scale protest movement and successfully mobilised massive demonstrations defending the KPK. These were attended by millions of

people in downtown Jakarta and other large cities in November 2009. Significant popular and student movements throughout the country were widely covered by the media and they generated strong political pressure to protect the KPK (von Loubke 2010, 87; Interview, Ade Irawan, co-ordinator, ICW, Jakarta, January 27, 2015). President Yudhoyono finally provided support to the KPK and ordered the police and AGO to desist from their investigations of the agency. According to some commentators, if the president had not heeded the public pressure, it would have been an act of political suicide (Bolongaita 2010; von Loubke 2010, 91; Interview, Donal Fariz, ICW researcher, Jakarta, December 4, 2013). In this way the media and elements of civil society were successful in changing the balance of political power in favour of the anti-corruption agenda. In effect this increased the political risks for coalitions of vested interests and associated political actors.

Although the KPK was ultimately unable to identify and prosecute those orchestrating the activities in the CB case, it achieved some superficial success with the successful prosecution of one of the CB owners and the former member of the central bank's board of governors (Interview, Billy Khoirudin, senior journalist, Kompas media group, Jakarta, January 5, 2015). The more limited success here than in the beef import case reflects the power of the interests operating against the KPK. Nevertheless, civil society activity was still able to provide the agency with a level of protection. The reaction from civil society was particularly strong in response to the serious threats faced by the KPK in the CB case. This indicates that the KPK's capacity to act reflects the interaction of a wide range of factors, not simply the strength of the vested interests acting against it, which may in fact stimulate greater levels of public awareness and reaction when the KPK's very existence is threatened.

Lessons on the Dynamics of Power Relations and Corruption Control

At the most basic level, this study has made it clear that ¹² vested interests among politicians, political staff, government officials, power brokers within law enforcement agencies and business actors, have been able to realign in “democratic” Indonesia in ways that enable the formation of coalitions that can subvert laws and regulations for mutual gain at the cost of public interest. However, their capacity to exert power through such networks was not uniform – the two cases discussed above exhibited varying strengths on the part of vested interest coalitions, which resulted in considerable differences in the nature and magnitude of their impact on the anti-corruption machinery. Contrasts were evident in the power resources of those orchestrating corrupt activities and consequently the strategies that could be mobilised to resist the KPK's investigations. Moreover it was not only the membership and cohesiveness of the coalitions of vested interests opposing it that was of particular importance for the KPK, but also the level of its own political backing and the extent to which an active ⁴ civil society and independent media were able to mobilise public opinion in support of the agency and the anti-corruption agenda more broadly.

Turning first to the nature of the vested interests involved, the beef import and CB corruption cases illustrate contrasting ways in which coalitions of interests have been able to resist and impede the KPK. In the beef import case, the coalition lacked connections with agencies and actors capable of exerting direct influence over the

KPK, hence the main avenue available was to seek to discredit the agency through a media offensive. However, the KPK's ability to respond severely weakened this coalition, which – in spite of efforts to obscure its connections with the PKS – had been unable to conceal the identity of the high-profile politician who was the PKS's top leader at the centre of the case. In contrast, the powerful positions of many actors in the CB case, and the inability to uncover the main perpetrators, posed a much greater challenge to the KPK, threatening technocratic incompetence in anti-corruption efforts through direct interference with the anti-corruption machinery (Bolongaita 2010, 20).

 As outlined by Krueger (1993), Collier (2002) and Brinkerhoff (2000), when corruption is located within the machinery of government and law enforcement institutions, political will in combating corruption is also likely to be weakened. This exacerbated risk for the KPK in the CB case, where direct support from the highest political level was initially lacking, and only eventuated in the face of strong mobilisation of public opinion against perceived corruption. Such risks are ongoing, with the House of Representatives' special enquiry in April 2017 that attacked the KPK's legitimacy.¹ Whether these attempts to limit the KPK through amendment to the law governing its power and authority will succeed, or again be impeded by the actions of civil society groups and the media, remains to be determined.

These observations indicate there is an important overlap between anti-corruption as a law enforcement task and as a political battle. Clearly, those who win political office will have considerable power to influence the direction of anti-corruption policies, and if links with networks that have survived political, economic and institutional reforms are retained, there are strong motives to seek to limit the powers of agencies such as the KPK. Analysis of the CB case showed that such attempts can be defeated. However, this outcome may have been very different in the absence of strong civil society support.

Indeed, both case studies have shown that an active civil society was a strong ally of the KPK in its battle against corrupt forces and in securing political support. Under these conditions, vested interests were faced with forces that had the potential to diminish their political popularity, electoral appeal and moral credibility (Interview, KPK senior official, Jakarta, November 23, 2013; Interview, KPK senior official, Jakarta, February 6, 2015). However, mobilisation of public opinion and media reactions are contingent processes. For example, some mainstream media companies are controlled by powerful corporate owners (Sudibyo and Patria 2013, 274; Interview, Arief Zulkifli, Editor-in-Chief, Tempo media group, Jakarta, January 12, 2015); thus media outlets that remained relatively independent in covering the KPK's situation in the CB case may have done so simply because the issues were not directly related to the media owners' interests. Moreover, manipulation can occur for multiple reasons. For example, some media owners with connections to political parties were seen as trying to use the CB case to score political points against the ruling government and increase their bargaining power in order to protect political and business interests (Interview, Arief Zulkifli, Editor-in-Chief, Tempo media group, Jakarta, January 12, 2015; Interview, KPK spokesperson, Jakarta, February 7, 2015). Hence,  there is no guarantee that the collaboration of civil society and media will always produce victories over corrupt vested interests. Rather, there are complex possibilities that depend at least in part on whether media owners' interests are aligned with vested interests, and if so, which ones.

In addition, civil society reactions may lack strong organisation and clear focus, and due to the lack of capacity or resources to identify underlying sources of corruption may focus primarily on superficial issues. In the CB case this was evident in the inability of civil society groups to comprehend complexities and uncover hidden forces, such as the instigators of the AGO and police counterattacks on the KPK. Rather the groups seemed to pay most attention to recurring issues in the media, particularly those reporting the individual manoeuvres of Commissioner General Susno. The activities of more powerful actors above Susno were not identified until later, when internal communications within the KPK mentioned the existence of a “special team” established by the Chief of National Police, General Bambang Hendarso Danuri and led by the Vice-Head of the Criminal Investigation Department to handle “pre-emptive tasks” against the KPK (Interview, senior KPK investigator, Jakarta, October 29, 2015; Interview, Billy Khoirudin, senior journalist, Kompas media group, Jakarta, January 5, 2015). Moreover, although social movement activism was large-scale, it was also sporadic, incidental and not organised for the long-term. Thus, after more than eight years of the KPK’s investigation, civil society action was unable to assist the KPK’s efforts to uncover and dismantle the underlying vested interest frameworks that still remain undisclosed.

Nevertheless, this strong anti-corruption commitment within an increasingly politically literate society, facilitated by a largely free press, can be seen as a result of the democratisation process and provided considerable protection to the KPK. In line with Aspinall’s (2013a) and Mietzner’s (2012) notion of a “middle path” between neo-liberal and structuralist positions, it is important to recognise the potential but contingent role of these social forces. In the two case studies examined, although social forces were not highly organised or focused, they consistently played significant roles in challenging vested interests and in defending the KPK. This does not mean that they would always be able to do so. Their limitations are well-recognised in the structuralist theoretical framework, which argues that a strong media and civil society may frustrate the vested interests but cannot generate the fundamental institutional change required to address the main sources of the corruption problem. The evidence from our case studies provides modest support for the “middle path” by illustrating the influence of civil society and the media in contrasting circumstances. While their impact is contingent, they are strengthened by democratisation and thus represent countervailing forces to the reconsolidation of predatory interest groups that may also be facilitated during democratisation.

In summary, the two cases have underlined several key factors that have facilitated or impeded the KPK’s ability to achieve its aims in the post-Soeharto reform context. These include, on the one hand, the strength of coalitions of vested interests that were able to resist investigation to varying degrees, most strongly in the CB case, and on the other, civil society and media activism that continually challenged the actions of vested interests and provided support to the KPK’s investigations. Both cases reveal that the success of coalitions of vested interests in impeding corruption control initiatives depends very much on their capacities to mount powerful counterattacks, exploiting the anti-corruption agency’s institutional weaknesses, creating technocratic incompetence, and/or establishing political, bureaucratic and legal barriers – the stronger the presence of these elements, the greater the resistance and thus the more formidable the task of corruption investigation. The case studies also show, however, that strong attacks on the KPK can generate concerted reaction from the public and that this offers some protection to the agency and may influence the level of political support for its activities.



Conclusions

The main conclusions from the analysis are that although vested interests are capable of re-emerging and subverting anti-corruption measures in post-reform Indonesia, the capacity to form these coalitions and the power to resist anti-corruption efforts are highly contingent. The successful prosecution of corruption cases depends not only on the nature of networks of vested interests and their capacity to resist anti-corruption initiatives, but also on the ways in which these actions in turn generate responses from civil society organisations and the media, and the level of support from government leaders in the context of these countervailing forces. Overall, then, a set of multi-layered and interacting influences shape the effectiveness of the KPK in containing corruption in (partially) democratised and liberalised post-Soeharto Indonesia.

These contingencies raise questions over neo-liberal and structural perspectives on the dynamics of corruption and strategies to contain it. A middle path that recognises strengths and limitations identified in contrasting theoretical perspectives would appear to provide a useful way forward. Some critical political economy theorists do acknowledge that the neo-liberal reforms applied in post-Soeharto Indonesia have produced some advances in governance. Even so, the roles of civil society and the media, which have emerged as significant institutions in post-Soeharto Indonesia, need to be better integrated into theoretical approaches in ways that neither underestimate nor overstate the potential for strengthening the offensive against corruption.

While scholars like Quah (2003; 2009), Choi (2011) and Painter (2014) have argued that there is also a need for strong political leadership in order to neutralise the threats and challenges faced by anti-graft agencies such as the KPK, the case studies presented here have shown that political will cannot be taken for granted and needs to be carefully conceptualised in a fluid political environment like Indonesia. The findings from the CB case in particular provide valuable lessons on how political will in the democratic realm is sensitive to strong and critical public pressure. This means that the concept of political will should not be understood as solely coming from the inherent characteristics of the leaders, but also from politically evolving conditions more broadly. Leaders' willingness, or otherwise, to support anti-corruption action is highly dependent on the prevailing constellation of interests and the political incentives for action.

In practical terms, the contingencies observed mean that the KPK is continually open to resistance and attacks and is at its most vulnerable in the face of politically powerful and coordinated interests, when high-level political support is lacking and when public, media and civil society supports are weak or fragmented. Thus, it is clearly not a "super body" able to resist all offensives. It appears to be an extraordinary agency when it deals with actors who are politically weak and have no direct power over it. However, it is weak when facing politically powerful parties with direct influence over its internal capacity, thereby exploiting its institutional deficiencies and influencing the direction and performance of its anti-corruption activities.

The KPK's future thus depends on the political dynamics among all these actors. This underlines the need for cohesive action among multiple reform-oriented elements including the government, political parties, parliament, law enforcement agencies, businesses, civil organisations and broader elements of society. In addition, this research identified a number of specific ways in which the KPK's capacities could be strengthened, to avoid

meeting the same fate as the seven previous anti-corruption institutions in Indonesia which were disbanded when they attempted to challenge the centre of power. The most important interventions would be to close the loopholes in the legal basis and institutional design of the KPK that have become fundamental deficiencies. Drawing on lessons from the CB case it is clear that the legislative basis for the KPK must be amended to enable strengthening its infrastructure and resources. The CB case has also indicated the importance of legally guaranteeing the KPK's direct authority to recruit independent investigators and prosecutors, thus avoiding its institutional dependency upon other state agencies. A further intervention, to avoid the risk of the KPK's commissioners and employees being prosecuted by corrupt law enforcers and their allies from other agencies, would be to provide them with time-limited immunity or protection during their tenure as KPK commissioners and employees. In lieu of law, this could be established through government regulation. Such reforms would enable the KPK to maintain internal strength and coherence and enhance the effectiveness of its anti-graft machinery, particularly when dealing with powerful and well-organised coalitions of corrupt forces.

The likelihood that such interventions to strengthen anti-corruption will be pursued is itself highly contingent. It depends on the complex political dialectic between the resilient vested interest groups and countervailing pressures through social groupings being nurtured under the more open democratic environment. While deepening the quality of democracy would provide a more secure ground for civil society organisations and free media, and enhance their capacity to support anti-corruption interventions, such developments are far from inevitable.

Note

1. This may have been a reaction to the KPK investigating two major cases: first, the electronic identity card scandal that allegedly involved members of the House and including the Speaker of the House; and second, an old corruption case of misused Central Bank Liquidity Funds under President Megawati's administration (2001–2004) allegedly involving leaders of the Indonesian Democratic Party of Struggle.

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