

Corruption Court Law, heavily regulated anti corruption portion

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Irawaty Wardany

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The House Representatives has just passed the Corruption Court Law last week, many people considered its substances not to be in line with the spirit of corruption eradication. The Jakarta Post's Irawaty Wardany talked to senior lawyer Todung Mulya Lubis, who is also known as an anti corruption activist about this. Here are the excerpts.

What do you think of the newly enacted Corruption Court Law? Has it accommodated the spirit of corruption eradication efforts?

On the surface we can see that the spirit is still strong but we also see that there were various cooption moves regarding the Corruption Court including the plan to reduce the number of ad hoc judges in the panel of judges handling cases. Usually the ad hoc judges are the majority in the panel. That is the first issue.

Secondly, so far the corruption court is located in Jakarta only, but it will now be established in 33 provincial capitals and I heard the Supreme Court will start with establishing seven more corruption courts depending on the budget.

At some point I see that the government is trying to decentralize the fight against corruption courts but on the other hand this will cause unintended consequences such as weakening monitoring of the corruption courts, because instead of having one in Jakarta that has so far been closely watched by the civil society and by the media, now we have to diversify them to other regions that probably do not have civil societies that are as vocal, outspoken and active or free nor such independent media. These moves may unintentionally weaken anti-graft processes following the diversification of corruption courts.

Thirdly, preparation to train and to improve the skills of booth career and ad hoc corruption court

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judges will take time. Relatively speaking we are more geared to the current condition where the Corruption Court is located in Jakarta. Preparing career and ad hoc judges for seven Courts, and later on for 26 other courts, will take time because it will not be easy to find judges who really have the commitment to learn about legal precedents and jurisprudence of corruption courts in both domestic and foreign countries.

It will also not be easy to provide the needed budget from the state. It must wait for the approval of the Finance Ministry and the House of Representatives.

Fourthly, the corruption court will be subordinated to the district court because it is (structurally) under (the authority) of district courts, whereas the initial idea was that the corruption court was part of the district court system but not subordinate to district courts.

I'm afraid another unintended result of the new Corruption Court Law is that the district court chief will feel that he or she is the one who has the authority over the corruption courts.

So there is a kind of different basis here. This all indicates potential to weaken the Corruption Courts. Part of it probably by design and the rest is the unintended results or unintended consequences of diversification of the corruption courts.

So you're saying this law has more downsides than advantages?

Well...this law is part of political compromise. We have tried our best to maintain existence of the Corruption Court and its composition (of judges) because it is easier to monitor and improve the quality of the court in Jakarta rather than to monitor many corruption courts.

It doesn't mean that we do not want to eradicate corruption in the regions but so far corruption cases that took place in the regions such as Papua, Banyuwangi, Pelalawan, Medan are all tried in Jakarta. They are what we call the big fish, but now they are going to be tried in their own regions in circumstances where the corruption will not be ready, and where human resources have yet to become professional. So the quality of corruption court rulings [in these circumstances] has yet to be guaranteed [to be fair].

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I don't want to be pessimistic but a question remains now on whether the quality of regional corruption courts will have some quality as that of the Jakarta court.

The Corruption Court Law only orders to diversify the court, whereas the KPK remains centralized. How do you see this?

I think the government is a bit ambiguous. KPK is supposed to have regional branches but the government has yet to approve this. So corruption cases in regions will still be handled by the prosecutors offices.

Well...we never expected it to be like this. The initial idea was the corruption court remain in Jakarta while we are going after the big fishes but with the establishment of corruption courts in every province, we need to have regional KPK as well.

If not, the process could be blocked and in the end the prosecution process would be handled back by the AGO's prosecutors.

If that is what happens, are the prosecutors tough enough to handle corruption cases? If the prosecutors were to be taken from (KPK) Jakarta, do we have enough to handle cases in seven regions?

So there will be problems to face in the field and that will also hamper the government's target to eradicate corruption.

About the judge's composition that you have mentioned earlier, the law says it will be regulated later by the Supreme Justice's decree. How significant is the composition of the judges in affecting corruption eradication efforts?

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I still believe that if the number of career judges were to be more than the number of ad hoc ones, then the quality of the rulings will not be fully in line with the spirit of corruption eradication, based on experiences so far. This is also one of my concerns.

Seeing the substance of the new Corruption Court Law and the current situation with the KPK, do you think this a reflection of the decreasing commitment by the government on corruption eradication?

I don't want to say it is decreasing but I get the impression that the government, the lawmakers and Supreme Court are afraid and concerned with current corruption eradication efforts because it can take them down. Therefore they formulate rules that make the fight against corruption less aggressive.

This is what I call the heavily regulated anti corruption portion. The commitment is strong enough but they do not want to give freedom and authority to both the KPK and the Corruption Court.

I think the instinct of the authorities will always be like this. In normal circumstances it is all right to reduce the authority of the KPK and corruption court, but we are not in normal conditions yet. Corruption is really systemic here so therefore we must make extraordinary efforts to end it.

When we have reached conditions similar to Singapore, New Zealand and Scandinavian countries where corrupt practices are really low then I will agree with the heavily regulated anti corruption portion. But we have yet to reach that level, so we must be aggressive.

Do you think the government's plan to choose KPK interim leaders is also part of the efforts to weaken anti corruption moves?

I'm afraid so. It is as if there is some kind of hidden agenda. I happen to be member of the selection team and we did our best to recommend good names that would help meet public worries about the possibility of interference in the KPK.

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