



Extraordinary Investigation Power of the Anti-Corruption Agencies in Indonesia and Singapore

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Abstract

Corruption is a pervasive issue globally, often regarded as one of the most significant challenges facing societies today. This research aims to enhance Indonesia's Criminal Justice System in addressing corruption, with a specific focus on the investigative powers granted to the KPK, by conducting a comparative analysis with Singapore's CPIB. Utilizing a functional comparative approach, this study examines the effectiveness of the exceptional powers given to these agencies in combating corruption. Despite the KPK's extensive powers, Indonesia's Corruption Perception Index has seen little improvement since its establishment in 2002, in contrast to Singapore, which consistently ranks among the least corrupt countries. This raises questions about the efficacy of granting broad investigative powers to anti-corruption agencies. While such powers are necessary, this research argues that they should not be the sole focus of anti-corruption efforts. Instead, a more holistic and multifaceted strategy should be adopted to effectively tackle corruption.

Keywords: Corruption; Extraordinary Crime; Investigation

1. Introduction

Corruption is one of the serious crimes people worldwide need to deal with. It is even considered the largest problem in the world, as corruption either created or made the largest problems in the world much worse.¹ In this article, I will use the definition of corruption by Transparency International which is "the abuse of entrusted power for private gain".² The large negative impact of corruption urges the Criminal Justice System from countries around the world to adjust, to tackle it more effectively and faster. Some countries choose to do that by introducing an Anti-Corruption Agency (ACA). These ACAs have been given some extra power and authority and greatly impact how the Criminal Justice System operates against corruption. This article will compare the Anti-corruption Agencies between Indonesia and Singapore, with a focus on how both countries deal

¹ Jay S. Albanese. 2022. *Why Corruption is the Largest Problem in the World*. International Criminology. pg. 103-110

² Transparency International. 2022. Retrieved from <https://www.transparency.org/en/what-is-corruption> on 27 October 2023

with corruption, especially regarding the Investigation Power given to the Anti-Corruption Agencies to tackle corruption.

To address the problem of corruption, back in 2002 Indonesian government decided to form an Anti-Corruption Agency called *Komisi Pemberantasan Korupsi* (KPK) through the enactment of Act Number 30 of 2002. This power given to the KPK however, has invited challenges from politicians and law experts, and therefore, in 2019, a revision of the KPK Act has taken place. While it was phrased by the government that the revision is to strengthen the anti-corruption institution, it does cut some notable Investigation Power from KPK. However, KPK still has extraordinary power to combat corruption in Indonesia compared to the police and prosecutors.

While in Singapore, the Corruption Practices Investigation Bureau (CPIB) was formed back in 1952 replacing the Anti-Corruption Branch (ACB) which was considered not effective in handling corruption.³ However, the CPIB was ineffective in handling the corruption during this period. It was only in the year 1960 when The Prevention of Corruption Act 1960 was enacted that the CPIB gained significant power and authority, and thus, had positive significant results in combating corruption.⁴

The article will talk about one of the most serious problems in the world, which is corruption. It will add clarity on a measure of combating corruption, that is extraordinary Investigation Power of the ACAs by comparing the country of Indonesia (KPK) and Singapore (CPIB). As Indonesia and Singapore have different results in combating corruption, this article will help to understand better what measures should be taken to effectively tackle corruption. This research aims to improve Indonesia's Criminal Justice System in tackling Corruption, especially regarding the Investigation Power given to the KPK.

2. Method

This article was done by using a Comparative Approach between the Anti-Corruption Agencies in Indonesia (KPK) and Singapore (CPIB). The functional method of the comparative approach was used in this article, starting from the problem of corruption and then seeing how both countries deal with it through their own Anti-Corruption Agencies, especially in the power and authority given to the agencies.⁵ The article used secondary data, with the primary source of the Anti-Corruption Act in both countries, which is in this case, Act Number 19 2019 of the Corruption Eradication Commission in Indonesia, and the Prevention of Corruption Act 1960 in Singapore. The secondary sources used in this article are retrieved from research articles, news, and an index that are related to and relevant to the topic. The functional method was used in this article as it aligns with the research aim which is to improve Indonesia's Criminal Justice System

³ Zeger van der Wal. (2021). Singapore's Corrupt Practices Investigations Bureau: Guardian of Public Integrity. In *Guardians of Public Value: How Public Organisations Become and Remain Institutions* (pp. 63-86). Palgrave Macmillan.

⁴ Rhendra Kusuma. (2022). Perbandingan Komisi Pemberantasan Tindak Pidana Korupsi Indonesia dengan Lembaga Pemberantasan Tindak Pidana Korupsi Negara Singapura, Hong Kong dan Malaysia. *University of Bengkulu Law Journal*, 75-76.

⁵ Mark Van Hoecke. (2015). Methodology of Comparative Legal Research. *Law and Method*.

in tackling Corruption, especially regarding the Investigation Power given to the KPK. The functional method is perfect for the research, as it starts with the problem (which is corruption in this case), and then continues with seeing how different countries deal with it.⁶

3. Examining the Scope of Investigative Authority: Anti-Corruption Agencies in Indonesia and Singapore

The author chooses to compare Indonesia and Singapore as according to the Corruption Perception Index, the corruption Singapore has a really great score in combating corruption, while this is not the case for Indonesia.⁷ However, if we look back in time, there was a time when corruption in Singapore was rampant⁸, and it is even considered as a way of life for the people, low-risk, high-reward activity.⁹

As this research aims to improve Indonesia's Criminal Justice System in tackling corruption, Singapore is a great comparator as they have suffered severe corruption in the past, yet they were able to turn the table and successfully combat corruption. This success of course cannot be attained apart from the work of CPIB, which is the only agency authorised to do corruption investigation under the Prevention of Corruption Act 1960. Therefore, comparing the Investigation Power of KPK with CPIB is a great way to improve the measure of tackling corruption in Indonesia.

The KPK was formed back in 2002 through the enactment of Act Number 30 2002. The Explanatory Memorandum of the Act mentions that KPK is not meant to monopoly the job of investigation and prosecution, instead, it was meant to be a “trigger mechanism” of the already existing institutions in the field of combating corruption.¹⁰ However, as the public trust kept increasing in KPK, this purpose has been set aside, and KPK currently has a more central function in combating corruption.¹¹

KPK then received a major change in its institutions through the enactment of Act Number 19 2019, changing the structure,¹² and limiting some of the powers of KPK, including the

⁶ Emmanouil Billis. (2017). On the methodology of comparative criminal law research: Paradigmatic approaches to the research method of functional comparison and the heuristic device of ideal types. *Maastricht Journal of European and Comparative Law*, 864-881.

⁷ Transparency International. 2022. Retrieved from <https://www.transparency.org/en/cpi/2022> on 27 October 2023.

⁸ Nicholas Lim Kah Hwee. 2019. SINGAPORE'S EXPERIENCE IN THE FIGHT AGAINST CORRUPTION. 189-195.

⁹ Jon ST. Quah. 2001. Combating Corruption in Singapore: What Can Be Learned? *Journal of Contingencies and Crisis Management*, 29-35.

¹⁰ Explanatory Memorandum of Act of Republic of Indonesia Number 30 2002

¹¹ Cindy Rizka Tirzani Koesoemo. 2017. *Eksistensi Komisi Pemberantasan Korupsi (Kpk) Dalam Penanganan Penyidikan Dan Penuntutan Tindak Pidana Korupsi*. Lex Crimen. Vol. VI/No. 1/Jan-Feb/2017. Pg. 62 - 70

¹² Nehru Asyikin & Adam Setiawan. 2020. *Kedudukan KPK Dalam Sistem Ketatanegaraan Pasca Diterbitkannya Revisi Undang-Undang KPK*. Justitia Jurnal Hukum. Volume 4. No.1. April 2020. Pg. 126-147

Investigation Power.¹³ The term Indonesia Corruption Act in this paper will then refer to both Act Number 30 2002 and Act Number 19 2019 as an integral part of each other.

The powers of investigation by the KPK are regulated in Article 12, and Article 45-50 of the Indonesia Corruption Act. The KPK, when related to corruption, is given the power to forbid someone from going abroad, asking for bank statements, blocking bank accounts, temporarily dismissing someone from his job, and stopping transactions (Article 12). By the Authorisation of the Supervisory Board, KPK also has the power to wiretap and record conversations (Article 12B (1)), and also search and confiscate a person or properties related to corruption (Article 47). An interesting thing to mention is the power to wiretap, record conversations, and confiscate before the revision of the Corruption Act in 2019, which can be done by the special investigators in KPK without prior authorisation from anyone.

The CPIB was founded back in 1952, but it was not only in the year 1960 when the Prevention Corruption Act 1960 was enacted that the CPIB received significant Investigation Powers.¹⁴ In contrast to the KPK, CPIB was meant to be the leading actor and responsible for combating corruption¹⁵ (not only to perform “trigger mechanism”). The Prevention Corruption Act was revised in 1985 and in 1993, and was amended by several Acts outside of the Corruption Act.¹⁶ Although there are some updates either by the revision of the Act or by the enactment of other related Acts, the writer finds that there is no major change regarding the Investigation Power of the CPIB.

Powers of Investigation given to the CPIB are regulated under sections 17-22 of the Prevention Corruption Act 1960. In this act, related to the commission specified in Section 17 (1), without the order of the Public Prosecutor, the Director or a special investigator has the power of all or any police investigations given by the Criminal Procedure Code 2010, while beside the commission specified in Section 17 (1), this power only can be exercised with authorisation of the Public Prosecutor (Section 19). Authorisation by the Public Prosecutor also needed to exercise power to investigate any bank account, share account, purchase account, expense account or any other account, or any safe deposit in any bank (Section 18), and also to order an inspection of bankers' books (Section 20).

Lastly, the Director may, by warrant order the special investigator to enter a place by force, and to search, seize, and detain any document, article, or property if the Director thinks they are related to the commission of Corruption Act (Section 22 (1)). This power also can be exercised by any special investigator with the term of having reasonable

¹³ Rainaldy Valentino Kaligis. 2020. *Implikasi Hukum Atas Revisi Undang-Undang Nomor 30 Tahun 2002 Tentang Kpk Terhadap Penyelesaian Kasus Tindak Pidana Korupsi*. *Lex Crimen*. Vol. IX/No. 1/Jan-Mar/2020. Pg.140-150

¹⁴ Rhendra Kusuma. 2022. *Loc.cit*.

¹⁵ Jon ST. Quah. 2010. Defying institutional failure: learning from the experiences of anti-corruption agencies in four Asian countries. *Crime, Law and Social Change*, 53(1), 23-54

¹⁶ Singapore Statutes Online. Retrieved from <https://sso.agc.gov.sg/Act/PCA1960/Historical/19870330?DocDate=19890728&ValidDate=19870330&Tipline=On>, on 27 October 2023

cause to believe that in any place there is concealed or deposited any document containing any evidence of, or any article or property relating to corruption crime.

In the last 20 years, Singapore has been constantly ranked as one of the best countries in terms of combating corruption according to the Corruption Perception Index. On the other hand, since the establishment of KPK in 2002, we see that until now, the Corruption Perception Index in Indonesia does not show significant changes.

However, as we can see, there are more powers given to the KPK (especially before the Act revision in 2019) compared to the CPIB. It does raise the question of whether this exceptional Investigation Power given to the ACA is needed to combat corruption. Although it is still necessary, the author suggests it should not be the main focus in combating corruption, especially when these exceptional Investigation Powers mean an extra violation of human rights. Therefore, a more thorough and comprehensive approach to combat corruption should be considered rather than just increasing the power of the ACA.

The most obvious limitation of this article is the fact that it does not examine how the power given to the ACA is exercised in the real world. It is very likely that the powers given are not used properly in law practices. Another thing to mention is that this article only focuses on the law, and does not consider the socio-politic context, economy, and geography of both countries.¹⁷ The article also does not consider other measures and actors involved in the process of combating corruption, rather only limited to the Investigation Powers given to the Anti-Corruption Agencies in Indonesia and Singapore.

The comparison between Indonesia's KPK and Singapore's CPIB highlights key differences in the structure, authority, and effectiveness of their respective anti-corruption efforts. Singapore's CPIB, despite having fewer extraordinary powers compared to the KPK, has been remarkably successful in reducing corruption, as reflected in its consistently high rankings on the Corruption Perception Index (CPI). This success can be attributed to a combination of factors, including strong political will, a robust legal framework, and a culture of accountability that permeates all levels of government and society.¹⁸

In contrast, Indonesia's KPK, despite being granted extensive powers—particularly before the 2019 revisions—has struggled to achieve a similar level of effectiveness. The stagnation in Indonesia's CPI rankings suggests that merely granting exceptional investigative powers to an anti-corruption agency is not sufficient to combat corruption effectively. The effectiveness of these powers is likely influenced by how they are implemented, the legal and political environment in which the agency operates, and the public's perception and trust in the institution.

One significant point of concern is the potential for these extraordinary powers to lead to human rights violations. While strong investigative powers are necessary to combat

¹⁷ Quah, Jon S.T. (2007). "Anti-Corruption Agencies in Four Asian Countries: A Comparative Analysis." *International Public Management Review*, Vol. 8, No. 2, pp. 73-94.

¹⁸ Shah, Anwar (2007). "Tailoring the Fight against Corruption to Country Circumstances." In: Campos, J.E., & Pradhan, S. (Eds.), *The Many Faces of Corruption: Tracking Vulnerabilities at the Sector Level*. The World Bank, pp. 233-254.

corruption, especially in environments where corruption is deeply entrenched, they must be balanced with safeguards to prevent abuse and ensure that the rule of law is upheld. In Indonesia, the KPK's powers to wiretap, confiscate property, and restrict individuals' movements without prior authorization—powers that were only curtailed in 2019—raise critical questions about the balance between effective law enforcement and the protection of civil liberties.

Moreover, the article highlights the importance of considering factors beyond legal powers when evaluating the effectiveness of anti-corruption efforts. The broader socio-political context, economic conditions, and cultural factors play a crucial role in shaping the success or failure of these efforts. Singapore's experience demonstrates that a comprehensive approach, which includes but is not limited to strong legal measures, is essential for achieving lasting results in the fight against corruption.

4. Conclusion

The comparison between the KPK and CPIB underscores the complexity of combating corruption. While extraordinary investigative powers are a crucial tool in the arsenal of anti-corruption agencies, they are not a panacea. The experience of Singapore shows that these powers must be accompanied by strong political commitment, a robust legal framework, and a culture of accountability to be effective. For Indonesia, the findings suggest that while the KPK's powers remain necessary, they should not be the sole focus of anti-corruption efforts. A more holistic approach that includes legal reforms, public education, and institutional strengthening is needed. This approach should aim not only to empower the KPK but also to address the root causes of corruption, promote transparency, and build public trust in government institutions.

The limitations of this article, including its focus on legal frameworks to the exclusion of practical implementation and broader socio-political factors, highlight the need for further research. Such research could provide a more comprehensive understanding of what makes anti-corruption efforts successful and how they can be adapted to different contexts. By doing so, policymakers can be better equipped to design anti-corruption strategies that are not only legally sound but also practically effective and socially just.

References

- Albanese, J. S. (2022). Why Corruption is the Largest Problem in the World. *International Criminology*, 103-110.
- Asyikin, N., & Setiawan, A. (2020). Kedudukan Kpk Dalam Sistem Ketatanegaraan Pasca Diterbitkannya Revisi Undang-Undang KPK. *Justitia Jurnal Hukum, Volume 4. No.1*, 126-147.

- Billis, E. (2017). On the methodology of comparative criminal law research: Paradigmatic approaches to the research method of functional comparison and the heuristic device of ideal types. *Maastricht Journal of European and Comparative Law*, 864-881.
- Hoecke, M. V. (2015). Methodology of Comparative Legal Research. *Law and Method*.
- Hwee, N. L. (2019). Singapore's Experience In The Fight Against Corruption. 189-195.
- International, T. (2023, January). *Corruption Perception Index*. Retrieved from Transparency International: <https://www.transparency.org/en/cpi/2022>
- International, T. (n.d.). *What is Corruption*. Retrieved from Transparency International: <https://www.transparency.org/en/what-is-corruption>
- Kaligis, R. V. (2020). Implikasi Hukum Atas Revisi Undang-Undang Nomor 30 Tahun 2002 Tentang Kpk Terhadap Penyelesaian Kasus Tindak Pidana Korupsi. *Lex Crimen. Vol. IX/No. 1*, 140-150.
- Koesoemo, C. R. (2017). Eksistensi Komisi Pemberantasan Korupsi (KPK) Dalam Penanganan Penyidikan Dan Penuntutan Tindak Pidana Korupsi. *Lex Crimen. Vol. VI/No. 1*, 62-70.
- Kusuma, R. (2022). Perbandingan Komisi Pemberantasan Tindak Pidana Korupsi Indonesia dengan Lembaga Pemberantasan Tindak Pidana Korupsi Negara Singapura, Hong Kong dan Malaysia. *University of Bengkulu Law Journal*, 75-76.
- Online, S. S. (n.d.). Retrieved from Singapore Statutes Online: <https://sso.agc.gov.sg/Act/PCA1960/Historical/19870330?DocDate=19890728&ValidDate=19870330&Timeline=On>.
- Quah, J. S. (2001). Combating Corruption in Singapore: What Can Be Learned? *Journal of Contingencies and Crisis Management*, 29-35.
- Quah, J. S. (2010). Defying institutional failure: learning from the experiences of anti-corruption agencies in four Asian countries. *Crime, Law and Social Change*, 53(1), 23-54.
- Quah, Jon S.T. (2007). "Anti-Corruption Agencies in Four Asian Countries: A Comparative Analysis." *International Public Management Review*, Vol. 8, No. 2, pp. 73-94.
- Shah, Anwar (2007). "Tailoring the Fight against Corruption to Country Circumstances." In: Campos, J.E., & Pradhan, S. (Eds.), *The Many Faces of Corruption: Tracking Vulnerabilities at the Sector Level*. The World Bank, pp. 233-254
- Wal, Z. V. (2021). Singapore's Corrupt Practices Investigations Bureau: Guardian of Public Integrity. In *Guardians of Public Value: How Public Organisations Become and Remain Institutions* (pp. 63-86). Palgrave Macmillan.

