

## CHAPTER ONE

### INTRODUCTION

#### A. Background

In 2017, the House of Representative (hereafter DPR)<sup>1</sup> had used its right of investigation to evaluate the Corruption Eradication Commission (hereafter KPK)<sup>2</sup> with several reasons. One of the reasons was the KPK rejected to open the recording of Miryam S. Haryani's examination in electronic identity card case. The right of investigation was used because the DPR wanted to evaluate the performance of KPK including the budget affairs. Taufiqulhadi as one of the proposer's of this right of investigation analyzed the KPK's report regarding budget governance. In the report, there are 7 indications of violation of laws and regulations which were conducted by KPK such as official duty without a warrant, the standard payment of fee and honorarium which is not balance and planning of KPK's building budget which is over budget.<sup>3</sup>

Furthermore, the DPR also mentioned that KPK abused its power in investigating the suspects of corruption cases. The legal basic of right of investigation which was conducted by DPR were the Article 20 point 2 of the

---

<sup>1</sup> DPR is one of two elected national legislative assemblies in Indonesia. The members consist of political party member which is elected through general election.

<sup>2</sup> KPK was established with the main mission for enforcement law, in the case of corruption eradication. KPK as an independent state agency will perform its duties and authorities, and free from any and all influences. The KPK has big authorities such as conduct investigations and prosecutions at once for criminal act of corruption.

<sup>3</sup> Gibran Maulana Ibrahim, "Ini Sederet Alasan DPR Gulirkan Hak Angket KPK", April 28th 2017, taken from <https://news.detik.com/berita/d-3486828/ini-sederet-alasan-dpr-gulirkan-hak-angket-kpk> accessed on Friday, October 6th 2017 at 5:40 p.m.

1945 Constitution and Article 5, 15, 20 verse 2 point c of Law No 30 of 2002 on KPK.<sup>4</sup>

In another case, in the early October 2017, Agus Rahardjo and Saut Situmorang as the Commissioners of KPK were reported on an abuse case of making and using a fake letter on extension of prevention for Setya Novanto to go abroad as the suspect of the electronic identity card case.<sup>5</sup> It is based on Article 263 of the Criminal Code<sup>6</sup> jo article 55 paragraph (1) to the Criminal Code and or Article 421 of the Criminal Code<sup>7</sup>.

In other abusing issue, there were three investigators of the Corruption Eradication Commission who were reported to the police. They were Ario Bilowo, Arend Arthur Duma, and Edy Kurniawan. They were reported by Ikham Aufar Zuhairi and Arief Fadillah who allegedly abused their authority as KPK's investigators.<sup>8</sup> The legal basis of this case are Article 421 of the

---

<sup>4</sup> *Ibid.*

<sup>5</sup> Elshinta, "Dua Pimpinan KPK 'Tersangka' Dugaan Kasus Surat Perpanjangan Pencegahan Setya Novanto", November 8th 2017, taken from <http://www.bbc.com/indonesia/vert-cap-41912137> on Thursday, February 20th 2018 at 1.55 p.m.

<sup>6</sup> Article 263 of Penal Code "Any person who forges or falsifies a writing from which & title, a contract or a release from debt may arise, or which is intended to serve as evidence of a fact, with intent to use or to cause others to use it as genuine and unfalsified, shall, if from said use may result an injury, being guilty of forgery of writing, be punished by a maximum imprisonment of six years".

<sup>7</sup> Article 421 of Penal Code "Any official, who by misuse of power forces someone to do, not to do or to tolerate something, shall be punished by a maximum imprisonment of two years and eight months".

<sup>8</sup> Akhdi Martin Pratama, "Dituduh Salah Gunakan Wewenang, Pegawai KPK Dilaporkan ke Polisi", October 30th 2017, taken from <http://megapolitan.kompas.com/read/2017/10/30/16302261/dituduh-salah-gunakan-wewenang-pegawai-kpk-dilaporkan-ke-polisi> accessed on Sunday, December 17th 2017 at 3:05 p.m.

Criminal Code concerning on abuse of authority and Article 335 of the Criminal Code<sup>9</sup> concerning on unpleasant deeds.

It is not easy for KPK to conduct their authorities and tasks if their independence and integrity is intervened by others. It is related to the Article 3 of Law No. 30 of 2002 on Corruption Eradication Commission, it states that the KPK is a state institution which carry out its duties and authorities independently and free from any influence of power.

The KPK has settled more than 250 cases which involved the members of DPR and Regional Representative Council (hereafter DPD)<sup>10</sup>, ministers, governors and other state officials. While, the total losses of state finances that has been rescued by KPK since 2011 reached 134.7 billion rupiah. It consists of handling corruption cases, replacement money, spoils, confiscated money, the sale of the proceeds of corruption auction and the cost of the cases.<sup>11</sup>

---

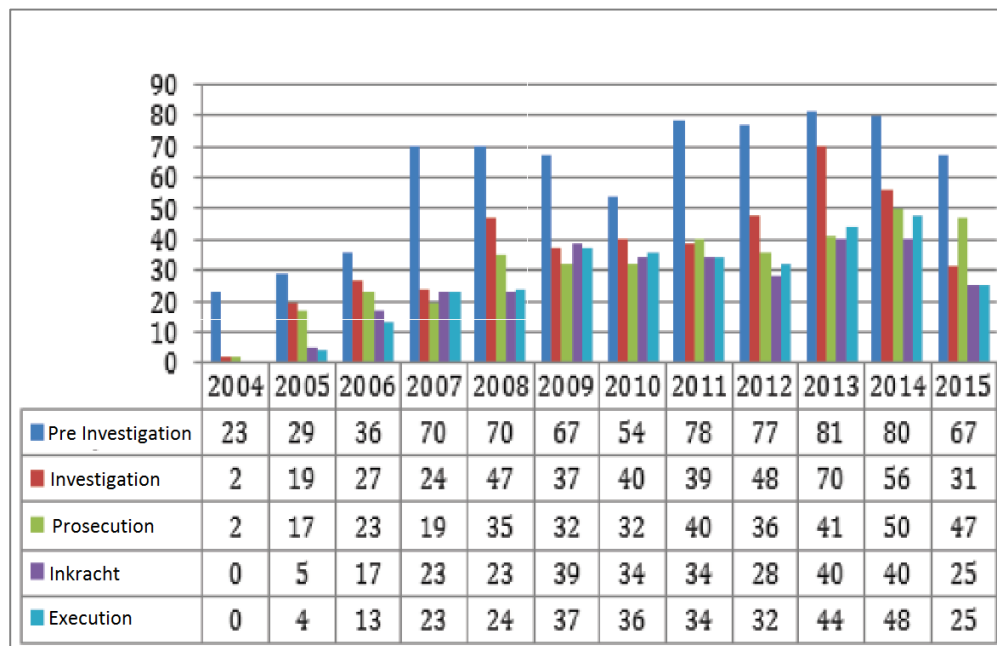
<sup>9</sup> Article 335 of Penal Code “A maximum imprisonment of one year or a maximum fine of three hundred rupiahs shall be punished by any person who forces another by threat of slander or libel to do, to omit or to tolerate something”.

<sup>10</sup>DPD is one of two elected national legislative assemblies from every province through general election.

<sup>11</sup>Komisi Pemberantasan Korupsi, “Selama Delapan Tahun, KPK Tangani 285 Kasus”, October 18th 2012, taken from <http://kpk.go.id/id/nukpk/id/berita/berita-sub/164-selama-delapan-tahun-kpk-tangani-285-kasus> accessed on Monday, October 16th 2017 at 4:50 p.m.

The KPK's case load in law enforcement activities are as follows:<sup>12</sup>

Figure 4.1  
The Performance of KPK from 2004-2015



The duties of KPK in investigating the corruption cases become an interesting phenomenon. Among the big corruption cases that has been settled by KPK such as in 2013, the bribery case of Chief Justice of the Constitutional Court, Akil Mochtar<sup>13</sup>. The case on bribery of the election dispute settlement in Empat Lawang District and Palembang City, Akil was detained for 5 years imprisonment.<sup>14</sup>

<sup>12</sup> Denny Indrayana, 2016, *Jangan Bunuh KPK*, Jakarta, Intrans Publishing, p. 182

<sup>13</sup> Akil Mochtar was the third Chief Justice of the Constitutional Court of Indonesia and had been a justice on the Constitutional Court since 2008. Akil also was a former politician from the Golkar party.

<sup>14</sup> Dian Andryanto, "Ini Daftar Kasus Besar yang Ditangani Novel Baswedan", May 20th 2017, taken from <https://nasional.tempo.co/read/877066/ini-daftar-kasus-besar-yang-ditangani-novel-baswedan#9Efu1sCxUPU0RuM4.99> accessed on Friday, October 6th 2017 at 3:50 p.m.

In other case, since 2011 the electronic identity card case became an interesting case happened in society. At least, more than 250 witnesses were examined for this case which cost state finances around IDR 2.3 trillion.<sup>15</sup> KPK also accused the Chairman of the House of Representatives Council as well Chairman of Golkar Party, Setya Novanto as a suspect of this case. He allegedly abused his authority and position for his benefits.<sup>16</sup> Until now, the case is still in the prosecution process of the court.

Based on the data above, it has proven that KPK has given the effort to combat corruption. It makes the society has high trust to the KPK in combating corruption. The results of a survey which was conducted by the Polling Center and Indonesia Corruption Watch (hereafter ICW)<sup>17</sup>, the level of public trust in corruption eradication efforts which were conducted by the KPK received high trust.<sup>18</sup> Therefore, KPK has become an important commission which has significant influence in combating corruption. It has become the reason why strengthening the independence and integrity of KPK is important.

---

<sup>15</sup>Fachrur Rozie, "Kasus e-KTP dari Komisi Pemberantasan Korupsi", March 8th 2017, taken from <http://news.liputan6.com/read/2878628/kejutan-kasus-e-ktp-dari-kpk> accessed on Friday, October 6th 2017 at 3:55 p.m.

<sup>16</sup>Robertus Belarminus, "KPK sudah Periksa 80 Saksi Terkait Setya Novanto pada Kasus E-KTP", August 23th 2017, taken from <http://nasional.kompas.com/read/2017/08/23/20531501/kpk-sudah-periksa-80-saksi-terkait-setya-novanto-pada-kasus-e-ktp> accessed on Monday, October 16th 2017 at 9:20 p.m.

<sup>17</sup>ICW is an Indonesian-based and led non-governmental organization (NGO) whose primary mission is to monitor and report to the public incidents of corruption in Indonesia. ICW is also heavily engaged in the prevention and deterrence of corruption through education, cultural change, prosecutions and system reform.

<sup>18</sup>Komisi Pemberantasan Korupsi, "Menjaga Kepercayaan Tanpa Melupakan Kewajiban", July 27th 2017, taken from <https://www.kpk.go.id/id/berita/berita-kpk-kegiatan/4023-menjaga-kepercayaan-tanpa-melupakan-kewajiban> accessed on Thursday, October 5th 2017 at 6:15 p.m.

According to Tama S Langkun,<sup>19</sup> the KPK will not only face the corruptors, but also face political pressure and internal threats. Internal threats here mean that although KPK is an independence institution but on the other side this institution still has internal problems. For example, there is an abuse of power and the violation of code of ethics which was conducted by the Commissioners and the investigators of the KPK. On the other side, the KPK also required to be able to combat corruption. The cases that KPK has not been able to solve are the cases related to political factors. Thus, it becomes a serious challenge for the KPK to settle the corruption cases.<sup>20</sup>

Based on the discussion before, it is an interesting topic to discuss on how to guarantee the independence and integrity of KPK in combating corruption. Since DPR has used its right of investigation to the KPK because the DPR would like to evaluate the performance and independence of KPK whether KPK conduct their authorities in line with the law or not. On another issue, KPK also still has internal conflict such as the abuse of power and the violation of code of ethics committed by the Commissioners or the investigators. Indonesia needs a better KPK to optimize its performance and authorities to combat corruption. So, based on the statement before, it arises a question about how to guarantee the independence and integrity of KPK in combating corruption.

---

<sup>19</sup>Tama S. Langkun is an anti-corruption activist from Indonesian Corruption Watch

<sup>20</sup>Gibran Maulana Ibrahim, "Ini Sederet Alasan DPR Gulirkan Hak Angket KPK", April 28th 2017, taken from <https://news.detik.com/berita/d-3486828/ini-sederet-alasan-dpr-gulirkan-hak-angket-kpk> accessed on Friday, October 6th 2017 at 5.40 p.m.

## **B. Research Problem**

The research problem are:

1. How to guarantee the independence of KPK in combating corruption?
2. How to guarantee the integrity of KPK in combating corruption?

## **C. Objective of Research**

The objective of research are:

1. To understand further about the independence and integrity of Corruption Eradication Commission in combating corruption.
2. To analyze how to guarantee the independence and integrity of Corruption Eradication Commission in combating corruption.
3. To propose some suggestion for better independence and integrity of Corruption Eradication Commission in combating corruption.

## **D. Benefits of Research**

The benefit of research are:

1. Theoretical Benefits

This research would give the understanding on the Corruption Eradication Commission, particularly on how to guarantee the independence and integrity of Corruption Eradication Commission in combating corruption. This research will open the view on the importance of the independence and integrity of Corruption Eradication Commission in combating corruption.

## 2. Practical Benefits

This research would propose some suggestions to the Corruption Eradication Commission to guarantee the independence and integrity of the Corruption Eradication Commission in combating corruption.