

### Anti-graft drive takes a dive?

In 2006, the Constitutional Court made the controversial decision to declare the Corruption Court unlawful, saying its legal basis was not strong enough. Passing the baton over to the government and the House of Representatives, the Constitutional Court then asked for a new Corruption Court law to be completed within three years. With only one year left, the government has finally come up with draft legislation that will shortly be handed over to the House for debate. But is this good news for Indonesia's anti-graft efforts?

The new legislation will have an enormous impact on the way corruption is fought in this country. Since 2002, the government's anti-graft drive was effectively sealed off from the notoriously unreliable mainstream legal system. Instead, all incidences of major corruption were investigated and prosecuted by a new body, the Corruption Eradication Commission (KPK), and tried in a new court, the Corruption Court (Tipikor). Now, judging from the government's first draft of the new laws, it seems that state prosecutors, the police and judges are to be given an expanded role in handling corruption cases.

The proposed anti-corruption law will take away the KPK's previous authority to prosecute suspects. At the time of the KPK's original law, the body was given this authority to bypass the state's prosecutors.

The bill also re-codifies some of the KPK's powers, which have been the subject of some debate, while expanding the authority of police investigators. These include the ability to unilaterally seize assets, tap phone conversations, obtain banking records and freeze the bank accounts of suspects.

However, at the same time as the police's investigative powers have been expanded, the bill has scrapped the minimum penalties for corruption offences.

The Corruption Court has now been given its own separate bill, supposedly to ensure its strong basis in law. But the substance of this bill has some anti-corruption activists worried. Instead of just one central Corruption Court in Jakarta, the draft law stipulates that there will be multiple courts dealing exclusively with corruption in several provinces around Indonesia.

Medan in North Sumatra, Surabaya in East Java, Makassar in South Sulawesi and Jakarta are all slated to have such courts with jurisdictions over the surrounding region.

For some time, legal analysts have said the government's anti-corruption institutions needed more of a presence in the regions. However, what has activists concerned is where the judges for these courts will be sourced from.

"Establishing the new courts will be a costly process," Emmerson Yuntho from Indonesian Corruption Watch told the *Report*. "There are only a few judges in the country who have the capacity to handle corruption cases. We are also concerned about the quality of the judges who will be assigned to these courts."

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The draft law envisages that the heads of the new provincial courts will all be career judges from the district level who will undergo specialist anti-corruption training. Yuntho believes it would be better to have new recruits or *ad hoc* judges rather than judges who may have already become tainted by corruption.

Currently the government's draft of the bill is with the State Secretary and will soon be assigned to the House's Commission III for debate. However, corruption activists also have some cause for hope: an alternative draft corruption law prepared by a group of NGOs is also currently in circulation and is likely to be the subject of lobbying efforts in the House during the year.□