

## Chapter 18

# Indonesia's national and local Ombudsman reforms: Salvaging a failed experiment?

*Melissa Crouch*

The reality that corruption remains rampant in Indonesia was highlighted recently when debate surfaced over whether the President should declare an emergency state of corruption,<sup>1</sup> particularly in light of endemic judicial corruption.<sup>2</sup> Indeed, since the transition to democracy in 1998, the widespread problem of corruption has come under increasing scrutiny. This has led to the development of legal initiatives to combat corruption that focus on the goal of 'good governance', a term I define later. One of the first initiatives that was established in this atmosphere of 'good governance' reform was the National Ombudsman.

The Ombudsman is certainly a notable focus of democratic reform in Indonesia, which is now one of more than 130 other countries worldwide that have established such an agency (Komisi Ombudsman Nasional, 2005a: 12) but is the Ombudsman in Indonesia working effectively in practice? Has the Ombudsman addressed the widespread problem of corruption by promoting 'good governance' in Indonesia as hoped?

Furthermore, in light of the radical decentralisation reforms and the allocation of greater powers to regional governments, it is especially necessary to ask how the concept of the Ombudsman has developed and is working at the local level. Does the Ombudsman have sufficient powers of investigation and enforcement to fulfil its role effectively? What is the nature of the relationship between the Local Ombudsman and local authorities, the judiciary and the National Ombudsman? How has local support influenced the effectiveness of the Ombudsman in fostering good governance?

To answer these questions, this chapter will focus on the Local Ombudsman (Lembaga Ombudsman Daerah) in the Special Province of Yogyakarta, arguing that although the National Ombudsman is failing due to a decline in political support, the Local Ombudsman in Yogyakarta has been able to effectively promote good governance because of overwhelming local support. The efficiency and impact

---

1 Art 22(1) of the Indonesia Constitution states that the executive may introduce a government regulation (Perpu) 'in lieu of laws' in the event of a 'compelling emergency'. However, this power is exercised relatively frequently in practice: see The Jakarta Post (2006a). Nugraha (2006), Galingging (2006a). An emergency state of corruption was called for recently in Yogyakarta (Radar Jogja, 2006c: 1).

2 For an analysis on the past and present state of the Supreme Court see Pompe (2005).

This is a preview. Not all pages are shown.

creation of a Law in regard to the Local Ombudsman would further solidify these powers. The second element, the effectiveness of the Local Ombudsman's powers of enforcement (which are only morally, but not legally, binding) must continue to be monitored.

The success of the Local Ombudsman's investigations in instances such as the CDMA case has been secured by the good relationships the Local Ombudsman has built up with local authorities, namely the local government, the media and civil society. However, the existence of the Private Ombudsman must be re-examined, and positive steps must be taken to ensure the clear separation of powers between the Local Ombudsman and the judiciary. Clarification of the relationship between the Local Ombudsman and the National Ombudsman branch is also required, and the separation of their respective powers must be strictly maintained.

In light of the recent success of the Local Ombudsman in Yogyakarta, greater efforts should be channelled into the expansion of the office of the Ombudsman across Indonesia. This process should be focused on building local support as one of the key ways to effectively address corruption and foster good governance. Such measures will play an important part, alongside other steps towards good governance reform, in addressing the present alarming state of corruption in Indonesia.

### References

- Assegaf, Ibrahim (2002) 'Legends of the Fall: An Institutional Analysis of Indonesian Law Enforcement Agencies Combating Corruption', in Tim Lindsey and Howard Dick (eds), *Corruption in Asia: Rethinking the Governance Paradigm*. Sydney: Federation Press, 127-136.
- Atmasasmita, Romli (2002) *Korupsi, Good Governance dan Komisi Anti-Korupsi Di Indonesia*. Jakarta: Departemen Kehakiman dan HAM RI.
- Bell, Gary (2001) 'The New Indonesian Laws Relating to Regional Autonomy: Good Intentions, Confusing Laws', 2 *Asian Pacific Law and Policy Journal* 1-44, <[www.hawaii.edu/aplpj/pdfs/v2-01-Bell.pdf](http://www.hawaii.edu/aplpj/pdfs/v2-01-Bell.pdf)>.
- Bell, Gary (2003) 'Indonesia: The New Regional Autonomy Laws, Two Years Later', *South East Asian Affairs* 2003, 117-131.
- Bernas Jogja (2005a) 'Pengumuman tentang Dana Bantuan Operasional Sekolah', 26 September.
- Bernas Jogja (2005b) 'Ada BOS, RAPBS Bengkulu: Walimurid Mengadu ke LOD DIY', 31 October: 1, 14.
- Bertrand, Jacques (2004) *Nationalism and Ethnic Conflict in Indonesia*. Cambridge: Cambridge University Press.
- Bhargava, V and Bolongaita, E (2004) *Challenging Corruption in Asia: Case Studies and A Framework for Action*. Washington: World Bank.
- Buising, Trevor (2000) 'A Century of Decentralisation ...', 63 *Inside Indonesia*, July-September, <[www.insideindonesia.org](http://www.insideindonesia.org)>.
- Butt, Simon (1999) 'The Eksekusi of the Negara Hukum: Implementing Judicial Decisions in Indonesia', in Tim Lindsey (ed), *Indonesia: Law and Society*. Sydney: Federation Press, 247-57.
- Crouch, Harold (2000) *Indonesia: Democratisation and the Threat of Disintegration*. Singapore: Institute of Southeast Asian Studies.
- Dick, Howard (2001) 'Corruption and Good Governance: The Beginning or the End of Development?' in Damien Kingsbury and Arief Budiman, *Indonesia: The Uncertain Transition*. Bathurst, NSW: Crawford House Publishing, 25-42.
- Dick, Howard (2002) 'Corruption and Good Governance: The New Frontier of Social Engineering', in Tim Lindsey and Howard Dick (eds) *Corruption in Asia: Rethinking the Governance Paradigm*. Sydney: Federation Press, 71-86.

## NATIONAL AND LOCAL OMBUDSMAN REFORMS

- Galingging, Ridarson (2006a) 'Invoking Emergency Powers not to be Taken Lightly' *The Jakarta Post*, 6 March, <www.thejakartapost.com>, accessed 30 April 2006.
- Galingging, Ridarson (2006b) 'The Proper Role and Place for a Judicial Body' *The Jakarta Post*, 22 September, <www.thejakartapost.com>, accessed 22 September 2006.
- Glassburner, Bruce (1978) 'Survey of Recent Developments', 14(2) *Bulletin of Indonesian Economic Studies* 1-32.
- Goodpaster, Gary (2002) 'Reflections on Corruption in Indonesia', in Tim Lindsey and Howard Dick (eds) *Corruption in Asia: Rethinking the Governance Paradigm*. Sydney: The Federation Press, 87-108.
- Hamilton-Hart, Natasha (2001) 'Anti-Corruption Strategies in Indonesia', 37(1) *Bulletin of Indonesian Economic Studies* 65-82.
- Hartono, S; Masthuri, B; Rochmaeni, E; and Winarso (2003) *Panduan Investigasi untuk Ombudsman Indonesia*. Jakarta: Komisi Ombudsman Nasional and Asia Foundation Indonesia.
- Hermawan, Ary (2006) 'House Puts Priority on Judicial Commission Law, *The Jakarta Post*, 28 August, <www.thejakartapost.com>, accessed 28 August 2006.
- Hossain, K et al (2000) *Human Rights Commissions and Ombudsman Offices: National Experiences Throughout the World*. London: Klumer Law International.
- Taufiqurrahman, M (2006) 'Government Faulted for Dragging Feet on Recovering Stolen State Assets', *The Jakarta Post*, 6 April, <www.thejakartapost.com>.
- The Jakarta Post (2005a) 'Puteh Gets 10 Years in Jail for Corruption', 12 April, <www.thejakartapost.com>, accessed 10 May 2006.
- The Jakarta Post (2005b) 'Susilo Puts the Squeeze on Corruption', 6 May, <www.thejakartapost.com>, accessed 10 May 2006.
- The Jakarta Post (2006a) 'Justice Relies on Court's Absolute Respect for Rule of Law' 1 February 2006, <www.thejakartapost.com>, accessed 30 April 2006.
- The Jakarta Post (2006b) 'Said Agil Jailed in Haj Scandal', *The Jakarta Post*, 8 February, <www.thejakartapost.com>, accessed 12 May 2006.
- The Jakarta Post (2006c) 'Critics Slam 'Faltering' Fight against Rampant Corruption', 3 March, <www.thejakartapost.com>, accessed 30 April 2006.
- The Jakarta Post (2006d) 'Government to Revise Decree on Public Procurements', 6 April, <www.thejakartapost.com>, accessed 6 April 2006.
- James, Rhoda (1997) *Private Ombudsmen and Public Law*. Sydney: Ashgate Dartmouth.
- Kedaulatan Rakyat (2006) 'Soal CDMA, Kejati Periksa Mantan Ketua DPRD DIY: Pagi ini, Gubernur Dipanggil LOD', 12 January: 1, 23.
- Kingsbury, Damien (2005) *The Politics of Indonesia*, 3rd edn. Melbourne: Oxford University Press.
- Kingsbury, Damien and Budiman, Arief (eds) (2001) *Indonesia: The Uncertain Transition*. Bathurst, NSW: Crawford House Publishing.
- Komisi Ombudsman Nasional (2000) 'Laporan Tahunan'. Jakarta: Komisi Ombudsman Nasional.
- Komisi Ombudsman Nasional (2001) 'Laporan Tahunan'. Jakarta: Komisi Ombudsman Nasional.
- Komisi Ombudsman Nasional (2002) *Dua Tahun Komisi Ombudsman Nasional*. Jakarta: Komisi Ombudsman Nasional.
- Komisi Ombudsman Nasional (2003) 'Laporan Tahunan', Indonesia. Jakarta: Komisi Ombudsman Nasional.
- Komisi Ombudsman Nasional (2004a) 'Laporan Tahunan', Indonesia. Jakarta: Komisi Ombudsman Nasional.
- Komisi Ombudsman Nasional (2004b) 'Suara Ombudsman: Memperkuat Keberadaan Ombudsman Dalam National Ombudsmanstitusi', No 1. Jakarta: Komisi Ombudsman Nasional.
- Komisi Ombudsman Nasional (2004c) 'Suara Ombudsman: Pemilu, Ombudsman dan Pelayanan Publik', No 2. Jakarta: Komisi Ombudsman Nasional.
- Komisi Ombudsman Nasional (2004d) 'Suara Ombudsman: Ombudsman Daerah dan Kantor Perwakilan Nasional di Daerah', No 3. Jakarta: Komisi Ombudsman Nasional.
- Komisi Ombudsman Nasional (2005a) 'Peranan Ombudsman Dalam Pemberantasan dan Pencegahan Korupsi Serta Pelaksanaan Pemerintahan yang Baik'. Jakarta: Komisi Ombudsman Nasional.

- Komisi Ombudsman Nasional (2005b) 'Suara Ombudsman: Edisi Khusus Lima Tahun KON 2005. Peranan Ombudsman dalam Rangka Pemberantasan dan Pencegahan Korupsi'. Jakarta: Komisi Ombudsman Nasional.
- Komisi Ombudsman Nasional (2005c) 'Suara Ombudsman: Respon Pejabat Publik Atas Rekomendasi Ombudsman', No 1. Jakarta: Komisi Ombudsman Nasional.
- Komisi Ombudsman Nasional (2005d) 'Suara Ombudsman: Pengembangan Sistem Manajemen Informasi Dalam Lingkup Ombudsman Nasional', No 2. Jakarta: Komisi Ombudsman Nasional.
- Komisi Ombudsman Nasional (2005e) 'Suara Ombudsman: Fokus Perspektif Investigasi Wacana Kinerja', No 3. Jakarta: Komisi Ombudsman Nasional.
- Komisi Ombudsman Nasional, Perwakilan DIY dan Jawa Tengah (2005a) 'Laporan: Perkembangan Kantor Perwakilan Komisi Ombudsman DIY dan Jawa Tengah', 23 December. Yogyakarta: Komisi Ombudsman Nasional, Kantor Perwakilan.
- Komisi Ombudsman Nasional, Perwakilan DIY dan Jawa Tengah (2005b) 'Laporan Publik Satu Tahun', 28 October. Yogyakarta: Komisi Ombudsman Nasional, Kantor Perwakilan.
- Komisi Pemberantasan Korupsi (2004) 'Progress Report 2004', 1 July. Jakarta: Komisi Pemberantasan Korupsi.
- Kompas (2005a) '452.642 Siswa SD dan SMP Terima BOS', 19 August.
- Kompas (2005b) 'Ombudsman Daerah Pantau BOS', 31 August.
- Kompas (2005c) 'Minta SPP Turun: Puluhan Siswa Mogok Sekolah', 14 October.
- Kompas (2006a) 'Kasus CDMA: Sekda Jamin Rp 17m Kembali Tunai', 3 January: 1.
- Kompas (2006b) 'Kasus CDMA: Ombudsman Panggil Gubernur', Yogyakarta, 12 January: 1.
- Leeds, Adam (2006) 'The Challenges of Autonomy and Blossoming of Decentralization', *The Jakarta Post*, 12 September, <www.thejakartapost.com>, accessed 1 October 2006.
- Lembaga Ombudsman Daerah (2005a) 'Ombudsman Daerah: Menuju Penyelenggaraan Pemerintah Yang Bersih', September. Yogyakarta: Pusham UII dan Gatra Tri Brata.
- Lembaga Ombudsman Daerah (2005b) 'Ombudsman Daerah: Menuju Penyelenggaraan Pemerintah Yang Bersih', November. Yogyakarta: Pusham UII dan Gatra Tri Brata.
- Lembaga Ombudsman Daerah (2005c) 'Rekap Hasil Investigasi LOD Pada Napi di LP SE-DIY, September. Yogyakarta: Lembaga Ombudsman Daerah.
- Lembaga Ombudsman Daerah (2006) 'Kesimpulan Akhir Tentang Mal-Administration Dalam Proyek CDMA', 2 February. Yogyakarta: Lembaga Ombudsman Daerah.
- Lindsey Timothy (2000) 'Black Letter, Black Market and Bad Faith: Corruption and the Failure of Law Reform', in Chris Manning and Peter van Dierman (eds), *Indonesia in Transition: Social Aspects of Reformasi and Crisis*. Singapore: Institute of Southeast Asian Studies, 278-292.
- Lindsey, Tim (2001) 'Abdurrahman, the Supreme Court, and Corruption: Viruses, Transplants and the Body Politic in Indonesia', in Damien Kingsbury and Arief Budiman (eds), *Indonesia: The Uncertain Transition*. Hindmarsh, SA: Crawford House, 43-67.
- Lindsey, Tim (2002a) 'History Always Repeats? Corruption, Culture and Asian Values', in Tim Lindsey and Howard Dick (eds) *Corruption in Asia: Rethinking the Governance Paradigm*. Sydney: The Federation Press, 1-23.
- Lindsey, Tim (2002b) 'Indonesian Constitutional Reform: Muddling Towards Democracy', 6 *Singapore Journal of International and Comparative Law* 244-301.
- Lindsey, Tim and Dick, Howard (eds) (2002) *Corruption in Asia: Rethinking the Governance Paradigm*. Sydney: Federation Press.
- Lindsey, Tim (2004) 'Legal Infrastructure and Governance Reform in Post-Crisis Asia: The Case of Indonesia', 18(1) *Asian-Pacific Economic Literature* 12-40.
- Manning, Chris and van Dierman, Peter (eds) (2000) *Indonesia in Transition: Social Aspects of Reformasi and Crisis*. Singapore: ISEAS.
- Masthuri, Budhi (2005a) *Mengenal Ombudsman Indonesia*. Jakarta: PT Pradnya Paramitta.
- Masthuri, Budhi (2005b) *Peranan Ombudsman*. Jakarta: Komisi Ombudsman Nasional.
- McLeod, Ross (2000) 'Government-Business Relations in Suharto's Indonesia', in Peter Drysdale (ed), *Reform and Recovery in East Asia: The Role of the State and Economic Enterprise*. London and New York: Routledge, 146-68.

## NATIONAL AND LOCAL OMBUDSMAN REFORMS

- McLeod, Ross (2005a) 'Survey of Recent Developments', 41(2) *Bulletin of Indonesian Economic Studies* 133–57.
- McLeod, Ross (2005b) 'The Struggle to Regain Effective Government Under Democracy in Indonesia', 41(3) *Bulletin of Indonesian Economic Studies* 367-386.
- Nugraha, Agah Sujiwa (2006) 'Rampant Judicial Corruption Places Indonesia in State of Emergency', *The Jakarta Post*, 8 February, <www.thejakartapost.com>, accessed 30 April 2006.
- Nygh, Peter and Butt, Peter (eds) (1998) *Butterworths Concise Australian Legal Dictionary*, 2nd edn. Sydney: Butterworths.
- Pompe, Sebastiaan (2005) *The Indonesian Supreme Court: A Study of Institutional Collapse*. New York: Cornell Southeast Asia Program.
- Pope, Jeremy (2000) *Confronting Corruption: The Elements of a National Integrity System*. Berlin and London: Transparency International, Source Book 22, <www.transparency.org/publications/sourcebook>, accessed 5 May 2006.
- Prasetyo, E; Agustina, F and Marzuki, S (2003) *Ombudsman Daerah: Mendorong Terwujudnya Pemerintahan Yang Bersih*. Yogyakarta: Pusham Universitas Islam Indonesia.
- Radar Jogja (2005a) 'Local Ombudsman: 22 Sekolah Belum Terima BOS', 16 September.
- Radar Jogja (2005b) 'SPP Naik, Siswa Mogok', 30 October: 1, 7.
- Radar Jogja (2006a) 'LOD-LOS Segera Pindahan', 8 January: 1, 7.
- Radar Jogja (2006b) 'Amien Desak KPK Turun: 29 Elemen Masyarakat Demo di Kepatihan', 17 January: 1, 7.
- Radar Jogja (2006c) 'DIJ Layak Masuk Darurat Korupsi', 23 January: 1.
- Radar Jogja (2006d) 'LOS Kaji CDMA Dari Etika Bisnis', 23 January: 1, 7.
- Ramage, Douglas E (1995) *Politics in Indonesia*. London: Routledge.
- Razak, Imanuddin (2006) 'Judicial Commission the Loser in the Political Tug-of-War', *The Jakarta Post*, 1 September, <www.thejakartapost.com>, accessed 1 September 2006.
- Reif, Linda; Marshall, M and Ferris, C (1993) *The Ombudsman: Diversity and Development*. Edmonton, Alberta, Canada: International Ombudsman Institute.
- Reif, Linda (ed) (1995) *The Ombudsman Concept*. Edmonton, Alberta, Canada: International Ombudsman Institute.
- Rowat, Donald C (1985) *The Ombudsman Plan: The Worldwide Spread Of An Idea*, 2nd edn. Lanham: University Press of America.
- Rusdi, M (2006) 'Judicial Reform An Inevitability', *The Jakarta Post*, 13 January, <www.thejakartapost.com>, accessed 13 June 2006.
- Sherlock, Stephen (2002) 'Combating Corruption in Indonesia: The Ombudsman and the Assets Auditing Commission', 38 (3) *Bulletin of Indonesian Economic Studies* 367-83.
- Shimomura, Yasutami (ed) (2003) *The Role of Governance in Asia*. Singapore: Japanese Institute for International Affairs and ASEAN Foundation.
- Smith, A (2003) 'Indonesia in 2002: Megawati's Way', *South East Asian Affairs* 2003, 97-116.
- Sujata, A (2000) *Reformasi dalam Penegakan Hukum*. Jakarta: Djambatan.
- Sujata, A (ed.) (2002) *Ombudsman Daerah: Masa Lalu, Sekarang dan Masa Mendatang*. Jakarta: Komisi Ombudsman Nasional.
- Sujata, A and Suraehman, RM (2003) *Efektivitas Ombudsman Indonesia: Kajian Tindak Lanjut Kasus-Kasus Tertentu*. Jakarta: Komisi Ombudsman Nasional.
- Sumarto, Hetifal (2004) *Inovasi, Partisipasi dan Good Governance: 20 Prakarsa Inovatif dan Partisipatif di Indonesia*, 2nd edn. Jakarta: Yayasan Obor Indonesia.
- Taufiqurrahman, M (2006) 'Government Faulted for Dragging Feet on Recovering Stolen State Assets', *The Jakarta Post*, 6 April, <www.thejakartapost.com>, accessed 6 April 2006.
- Theobald, R (1990) *Corruption, Development and Underdevelopment*. Durham, NC: Duke University Press.
- Tim Gatra Tri Brata and Anggota Ombudsman Swasta (2005) *Lembaga Ombudsman Swasta: Prakarsa Kemitraan Atasi Poor Corporate Governance di Daerah Istimewa Yogyakarta (Juni)*. Yogyakarta: Gatra Tri Brata.
- Tim Pusham UII and Anggota Ombudsman Daerah (2005) *Lembaga Ombudsman Daerah: Prakarsa Kemitraan Atasi Poor Public Governance di Daerah Istimewa Yogyakarta (Juni)*. Yogyakarta: Pusham UII.