

Briefing Report

Report and Recommendations of the Independent Fact-Finding Team on the Legal Proceedings in the Case Against Chandra M. Hamzah and Bibit Samad Rianto

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Executive Summary

In April 2009, angry that the KPK had tapped his phone while investigating a corruption case, Indonesian Police chief detective, Susno Doadji, in an interview with Tempo magazine compared the KPK to a gecko fighting a crocodile, meaning the police. In September, two KPK deputy chairmen Chandra Hamzah and Bibit Samad Rianto, who had been suspended in July, were arrested on charges of extortion and bribery. The two men denied the charges, saying they were being framed to weaken the KPK. There were demonstrations in several cities in support of the men and a support campaign on the Facebook social networking site gathered one million members. On 2 November, President Susilo Bambang Yudhoyono established a team to look into the allegations. The following day, during a hearing at the Indonesian Constitutional Court, tapes were played of wiretapped telephone conversations apparently revealing a conspiracy to undermine the KPK. The names of Susno Doadji as well as Deputy Attorney General Abdul Hakim Ritonga and a businessman, Anggodo Widjojo, were mentioned in the tapes.¹

The legal proceeding on Chandra M. Hamzah and Bibit Samad Rianto has become an important issue to the public as it leads to the suspicious indications of fabrication of the case. In response to the suspicion, President Susilo Bambang Yudhoyono, on 2 November 2009, had issued the Presidential Decree Number 31 Year 2009 regarding the Formation of the Independent Fact-Finding Team on the Legal Proceedings of the Case of Chandra M. Hamzah and Bibit Samad Rianto (hereinafter as “Team 8”). The team is in charge of providing the verification of facts and legal proceedings on the Case of Chandra M. Hamzah and Bibit Samad Rianto. The team would be working for 14 days maximum, and can be extended if needed. Team 8 also has the authority to build coordination with various governmental agencies and to call for the parties related to the handling of the case. Bibit and Chandra were released later the same day as the formation of Team 8.²

In executing its task, Team 8 had verified the parties related to the case of Chandra and Bibit, and also conducted a Case Layout for that case. Team 8 found that there are suspicions of illegal court-mafia practices as indicated by wiretapped telephone conversation between Anggodo Widjojo with certain parties; that Antasari Azhar had revealed information on the alleged bribery of Commission to Eradicate Corruption (*Komisi Pemberantasan Korupsi* or KPK) leaders, through written testimonial to the Police; and that there is a conflict interest in the investigation process of Chandra and Bibit, concerning Susno Doadji.

Based on those verifications, Team 8 formed several conclusions regarding the legal proceedings on Chandra and Bibit, the professionalism of investigators and prosecutors, case-brokering, and the need for institutional reform. Based on these conclusions, Team 8 also gives several recommendations to the President.

¹ For a full background account, see Appendix.

² See The Economist 2009; Hamann 2009; and RRI 2009.

**Report and Recommendations of the
Independent Fact-Finding Team on the
Legal Proceedings in the Case Against
Chandra M. Hamzah and Bibit Samad Rianto**

Chapter I: Introduction

A. Background

The legal proceeding on Chandra M. Hamzah (hereinafter as “Chandra”) and Bibit Samad Rianto (hereinafter as “Bibit”) has become an important issue to the public as it leads to the suspicious indications of fabrication of the case.

The public’s suspicion occurs due to the following reasons:

- a. The circulation of the transcript of wiretapped telephone conversation recording between Antasari Azhar and Anggoro Widjojo in Singapore in some of the media;
- b. Rumors spreading that the wiretapping of the Police’s Head of Crime Investigation (Kabareskrim), Susno Duadji, is related to the clearing of savings from Century Bank;
- c. The declaration of Chandra and Bibit as suspects by the Police on 15 September 2009 under the charges of extortion and abuse of power;
- d. The circulation of the transcript of wiretapped telephone conversation recording that includes businessman Anggodo’s remark that hints the involvement of RI-1 (codename for the President of Indonesia);
- e. The arrest of Chandra and Bibit on 29 October 2009 by the Police, despite a weakly built argument and evidence. This act prompted noted public figures, national figures, practitioners and academicians to step forward and vouch for the two deputies from Commission to Eradicate Corruption (*Komisi Pemberantasan Korupsi*, hereinafter referred as KPK) in a bid to release the two suspects.

In order to stop the public suspicion from further affecting social and political stability, the President summoned several prominent figures, such as Anies Baswedan (Rector of Paramadina University), Komaruddin Hidayat (Rector of UIN Syarif Hidayatullah), Teten Masduki (General Secretary of International Transparency of Indonesia), and Hikmahanto Juwana (Professor of University of Indonesia Law) to discuss about the case that developed and the solution for the problems that it has caused.

The meeting resulted in the proposition that the President should form an independent Fact-Finding Team in order to avoid further deterioration of the public’s trust in the legal system due to the court proceeding against Chandra and Bibit.

The proposition was based on the consideration that the court proceeding against Chandra and Bibit is no longer a problem within the framework of the legal system but instead it has developed into a social, political and economic problem.

Tension was building among the people at the time. On one side, there are people who supported Chandra and Bibit, and in the other side there are those who supported the Police to execute the legal proceeding against Chandra and Bibit. The public support for Chandra and Bibit was carried out in the form of personal guarantees to suspend the arrest mainly channelled through a Facebook’s account established specifically to respond to this case.

B. The Authority of Team 8

On 2nd November 2009, the President issued a Presidential Decree Number 31 Year 2009 regarding the Formation of the Independent Fact-Finding Team on the Legal Proceedings of the Case of Chandra M. Hamzah and Bibit Samad Rianto (hereinafter as “Team 8”).

Based on this Presidential Decree, Team 8 is authorised to verify the facts and court proceeding that have been build against Chandra M. Hamzah and Bibit Samad Rianto.

The team has the 14 workings days’ maximum to gather and verify the facts.

Team 8 has the authority to demand cooperation from various governmental agencies and summon all parties related to the case to testify.

Team 8 membership consists of Dr. Iur. Adnan Buyung Nasution (Chairman); Irjen Pol (Purn) Prof. Drs. Koesparmono Irsan (Deputy Chairman); Denny Indrayana, S.H., LL.M., PhD. (Secretary); Dr. Todung Mulya Lubis, S.H., LL.M.; Dr. Amir Syamsuddin, S.H., M.H.; Prof. Hikmahanto Juwana, S.H., LL.M.) Ph.D.; Dr. Anies Baswedan; and Prof. Dr. Komaruddin Hidayat.

Chapter II: The Activities of Team 8

To perform its tasks, Team 8 has conducted activities aimed to collect facts related to the court proceeding against Chandra and Bibit, as well as to verify the case that was build by the Police investigators and the Attorney General Office (AGO).

In this chapter, the activities of Team 8 will be elaborated.

A. Conducting a Hearing the Wiretapped Conversation Recorded by KPK

A day after Team 8 was established, it conducted a meeting to consolidate some facts by conducting a hearing of the wiretapped conversation recorded by KPK and was heard in the Contitutional Court (*Mahkamah Konstitusi* or MK). The recording contains the following information:

- a. It was about the court case of PT Masaro, which is owned by Anggodo Widjojo;
- b. It mentioned that money has been passed from Anggodo to Ari Muladi;
- c. It mentioned the prerequisites to obtain public prosecutor’s office assistance in resolving the court case;
- d. It mentioned the approval of RI-1, which is the codename for the President of Indonesia;
- e. It contained request for assistance from the Victim and Witness Protection Agency (*Lembaga Perlindungan Saksi Kasus* or LPSK);
- f. It contained strategies and plans of bribery and extortion;
- g. It contained pledges of a high commitment to handle the threat posed by Chandra;
- h. It contained fee calculations for the parties involved;
- i. It contained plans to influence AM (Ari Muladi) to revert back to his first court testimony (*Berita Acara Pengadilan* or BAP).

B. Providing Interim Recommendations to Address the Public Outcry

Following the hearing of the wiretapped telephone conversation recording that created the public outcry, on 3 November 2009 the Team 8 provided several interim recommendations for the President and an action plans that need to be executed by the National Chief of Police (hereinafter as Kapolri).

The following are the recommendations proposed to the President:

- a. To dismiss and replace Susno Duadji (Kabareskrim) and Abdul Hakim Ritonga (Deputy of Attorney General) because both were mentioned in the wiretapped conversation recordings. Their dismissal is required to perform an effective and objective investigation as well as to avoid any conflict of interest;
- b. To act quickly in delivering a clear message to the public that the Government has strong commitment to enforce the law objectively; and
- c. To prepare comprehensive strategic measures for reforming the various legal agencies and address the problems that are pervasive and systemic in these institutions.

The following are the recommendations given to the National Police (Kapolri):

- a. To suspend the arrest of Chandra and Bibit. At its current state, the arrest will be regarded as the National Police's attempt to destabilise KPK;
- b. To arrest Anggodo Widjojo, who featured prominently in the wiretapped telephone conversation recording that created the public outcry; and
- c. To dismiss and replace Susno Duadji (Kabareskrim) whose name was mentioned in the wiretapped telephone conversation recording.

C. Collecting and Analyzing Testimonies and Available Dossiers

In gathering the facts, Team 8 started with collecting and analyzing testimonies and available dossiers obtained from various parties. These activities are as follows:

a. Meeting with the Civil Society

The meeting was held on Wednesday, 4 November 2009 and was attended by representatives of 15 NGOs; KRHN, LBH Jakarta, *Transparency International Indonesia*, *Indonesia Police Watch*, *Imparsial*, Elsam, ICJR, *Pusat Studi Hukum dan Kebijakan* (PSHK), *Masyarakat Transparansi Indonesia* (MTI), LeIP, *Dompot Dhuafa Republika*, *Pro Patria Institute*, P2D, PB HMI, LIPI.

The aim of the meeting was to acknowledge the people's concern on the legal proceeding against Chandra and Bibit. In this meeting, these NGOs also conveyed the aspirations, which among them; the resolution to the legal cases of PT. Masaro and Century Bank; the need for transparency and accountability of Team 8 in delivering the substantial recommendations conveyed to The President to public; the President needs to make comprehensive reform of the bureaucracy within the legal institutions; and requested the Team 8 to recommend to The President to dismiss the National Chief of Police and the Attorney General.

b. Meeting with Chief Editors of the Media

The meeting with the chief editors of the media was held in Nikko Hotel on Wednesday, 4 November 2009. The purpose was to attain the feedbacks from related media in relation to the case. Apart from that, Team 8 also utilized this meeting to explain the reason of the establishment of Team 8 and what its task and responsibility. It is important that the press acknowledge the existence of Team 8 in order to avoid news distortions.

c. Meeting with Kapolri and his senior officers

The meeting with Kapolri (National Chief of Police) and his staff was held on Thursday, 5 November 2009. In this meeting, Kapolri was flanked by the team of investigators that handled Chandra and Bibit's case. Susno Duadji did not attend this meeting. Kapolri conveyed the chronology of the investigation as conducted by police related to Chandra and Bibit's case. Kapolri also related the charges and relevant laws directly related to the allegations against Chandra and Bibit. Kapolri also exposed some of the evidences used by the investigators.

It is agreed that the national police investigators would present a case hearing before the Team 8 and the AGO.

After Kapolri provided the facts, he asked Team 8 to obtain detailed information from the investigators that handle the Chandra and Bibit case.

d. Meeting with Anggodo Widjojo

The meeting with Anggodo Widjojo was held on Thursday, 5 November 2009. Anggodo is the brother of Anggoro Widjojo and was the person whose conversation was wiretapped by KPK. Anggoro was accompanied by members of his team of lawyers; Indra Sahnun Lubis (Head of the team) and Bonaran Situmeang. Anggodo gave his testimony regarding: 1) the handling of PT. Masaro Radiokom's case by KPK; 2) the money and its amount given to Ari Muladi to be given to some of KPK leaders, deputies and directors; 3) the chronology of events involving Ari Muladi; 4) the travel ban on Anggoro by KPK; 5) the wiretapped conversation recorded by KPK between Anggodo and certain people; and 5) the clarification of "the murder threat" against Chandra.

e. Meeting with Chandra and Bibit

The meeting was held on Thursday, 5 November 2009 with the aim was to gather the fact from the dossiers. Chandra and Bibit were accompanied by some of their lawyers; Luhut Pangaribuan, Alexander Lay and Taufik Basari. Chandra and Bibit provided the details to clarify the allegedly of money bribery passed from Anggoro or Anggodo. The information obtained were; the untruth version of the emotional relationship between Chandra and M.S. Ka'ban as hinted by national police; chronology of the case of PT. Masaro Radiokom; the explanation on why the case of PT Masaro was not brought to the court.

In this meeting, team of the lawyers also conveyed the weird legal construction in relation to the investigation conducted by national police.

f. Meeting with KPK

The meeting was held on Thursday, 5 November 2009. All KPK leaders attended the meeting accompanied by Deputy of Action Enforcement (*Deputi Penindakan*), Ade Rahardja. KPK conveyed some of the details, among of them was the authority to instruct the travel ban on a person; the handling case of PT. Masaro Radiokom and the case of the conversion of Protected Forest with the suspect, Yusuf E. Faisal; the allegation of the involvement of Ade Rahardja in the money transaction to some of KPK leaders; The fake letter of travel ban revoked; mechanism about the dialogue inter-leaders as the realization of KPK leader's collegial decision; and the issue of conversation wiretapped of Lucas involving Susno Duadji.

g. Meeting with the Attorney General

The meeting with Attorney General and its range was conducted on Friday, 6 November 2009. Attorney General was accompanied by Attorney General Deputy of Special Criminal (*Jaksa Agung Muda Tindak Pidana Khusus* (Jampidsus)), key officials of attorney general's office, and also some of investigators from public prosecutor, who would handle the case of Chandra and Bibit. Attorney General provided the details about the resignation of Deputy of Attorney General, Abdul Hakim Ritonga and the reason. Afterwards Attorney general gave the information about the wiretapped conversation conducted by KPK, in which the name of AH Ritonga was mentioned (at that time served as *Jaksa Agung Muda Tindak Pidana Umum*, Wisnu Subroto, the former of *Jaksa Agung Muda Intelijen*. Attorney General also confirmed the independency of public prosecutor's office in handling the case of Chandra and Bibit.

Public prosecutor's office only revealed little information on the indictment that would be filed by Chandra and Bibit due to the office pledge. Attorney general also gave the information about the public prosecutor's office that had provided the guidance national

police detective in order to complete the case, among of them, by including the illegal act of extortion. Attorney general also gave the brief information about the case position and its handling process by attorney general's office. However the information in detail was provided by Jampidsus and the investigating public prosecutor (*jaksa peneliti*) each consists of 4 people for one case.

h. Meeting with the Susno Duadji

The meeting with Susno Duadji was held on Friday, 6 November 2009. Susno Duadji met Team 8 accompanied by M. Panggabean, Wakadiv *hukum Mabes Polri*. Susno Duadji provided the information about the reason of his resignation as Kabareskrim; the confirmation that he never accepted the money from anyone in relation to the case of Century Bank; concerning identification paper from Kabareskrim on the money status of Budi Sampurno in terms of the savings clearing; the issue of his name mentioning in the wiretapped conversation recorded by KPK; the aim of his visit to Singapore to meet with Anggoro Widjojo; the wiretapped action of Susno Duadji to give the impression that he received a bag, which actually an empty bag as the form of intelligent contra; the term of small lizard versus Crocodile he created; and his role in the legal proceeding against Chandra and Bibit.

i. Meeting with the Central of Report and Financial Transaction Analysis (*Panitia Pelaporan Anggaran dan Transaksi Keuangan* or PPATK)

The meeting with PPATK was held on Friday, 6 November 2009 which was attended by head of PPATK, Yunus Hussein. In providing the information on the bank account of Chandra and Bibit, PPATK stated that there was no money received by Chandra or Bibit in relation to PT. Masaro.

Apart from that, PPATK also provided the information verbally regarding the money in and out of the bank account owned by Ari Muladi, Anggodo. For the sake of the security of all parties, PPATK required that the information on the bank account was written down by Team 8 and PPATK would give the answer in the written form as well. Besides, PPATK also provided the facts about the money laundry.

j. Meeting with Ari Muladi

The meeting with the central figure of the money transferred from Anggodo to some of KPK leaders, Ari Muladi was conducted on Saturday, 7 November 2009. Ari Muladi was accompanied by some of his lawyers, among of them, Sugeng Teguh Santoso. The role of Ari Muladi in this case was as the person entrusted by Anggodo to give money to KPK leaders. Ari Muladi gave the information in detail, among of them; his acquaintance with Anggodo; the chronology of the money passed from Anggodo to Ari; the revocation of his first official statement report (*Berita Acara Pemeriksaan/BAP*) at the Headquarter of the National police; his meeting with Kabareskrim, Susno Duadji, at the Headquarter of the National Police; the concerns over the investigations of him; and the claim that he never gave the money obtained from Anggodo directly to KPK leaders, but through a middleman named Yulianto.

k. Meeting with Eddy Sumarsono

The meeting with Eddy Sumarsono was carried out on Saturday, 7 November 2009. The meeting was not required by the Team 8's invitation, but initiated by Eddy Sumarsono, who asked to meet Team 8. The role of Eddy Sumarsono in relation to the case of Chandra and Bibit was as the person who gave the information to Antasari Azhar as KPK chief at that time regarding the issue of the money received by KPK leaders from Anggoro. Based on this information, Antasari Azhar was facilitated to meet Anggoro in Singapore and Ari Muladi in

Malang. Eddy Sumarsono also gave the information about his relationship with Antasari Azhar, through a public prosecutor named Irwan Nasution.

Team 8 asked Edy about his motives in this case. It was revealed that Eddy actually obtained the information from another person and not based on his direct experience (*testimonium de auditu*).

l. Meeting with Antasari Azhar

The meeting with Antasari Azhar carried out twice, on Saturday and Sunday, 7-8 November 2009. Antasari Azhar was accompanied by some of his lawyers; among of them, Juniver Girsang, Hotma Sitompul and others. Antasari Azhar gave the information about the testimony which become the basis for the Police to investigate Chandra and Bibit; the link between the murder charge against Antasari Azhar and the case of Chandra and Bibit; the meeting with Anggoro in Singapore; the investigation of PT. Masaro; the graft case of the conversion of protected forest in South Sumatera with the suspect, Yusuf E. Faisal; the allegation that KPK leaders received the money from Anggodo; and the actions performed by Antasari Azhar.

m. Meeting with the Team from Tempo Magazine

The meeting with Tempo Magazine Team was held on Monday, 9 November 2009 at Nikko Hotel. Tempo Team was represented by Chief Editor of Tempo Magazine, Toriq Haddad, accompanied by some of Tempo editors/journalists. Tempo provided the information about its journalist investigation of the process of savings clearing owned by Budi Sampoerna in Century Bank; the role of Robert Tantular in the case of Century Bank; the role of Lucas, Budi Sampoerna's lawyer, in the savings clearing in Century bank; the communication that took place between Lucas and Kabareskrim, Susno Duadji; and other findings around the handling of Century bank case in which Lucas attempted to clear the savings owned by Budi Sampoerna with the assistance of Susno Duadji.

n. Meeting with Ade Rahardja (Deputy of KPK Enforcement Action)

The meeting with Ade Rahardja was held on Wednesday, 11 November 2009. Ade Rahardja is the key person who provided the information about the money passed from Ari Muladi to some of KPK leaders as stated by Ari Muladi in his first testimony to the Police (BAP).

Ade Rahardja testified that he did not know Anggoro, Ari Muladi or Yulianto. Team 8 also asked the connection between the SKRT case and the case of protected forest conversion in Tanjung Api-Api.

o. Meeting with Bambang Widaryatmo (Former Director of Enforcement Action of KPK)

The meeting with Bambang Widaryatmo was carried out on Wednesday, 11 November 2009. Bambang was accompanied by Kombes Pol Dr. Iza Fadri, S.Ik., S.H., and M.H. from Law Division of the National Police Headquarters. Bambang denied that he knew and had relationship with or received the money from Ari Muladi, Anggoro, Anggodo, or Yulianto. Bambang also revealed the weaknesses in the KPK system, among them, the administrative irregularities and internal conflict between leaders within KPK regarding the process of investigation of corruption cases. This had been experienced by Bambang when working as Director of Investigation at KPK. Bambang also revealed the fact about the background of the personal interest behind his transferal from KPK to Headquarter National Police.

p. Meeting with Abdul Hakim Ritonga (Former Deputy Attorney General)

The meeting with Abdul Hakim Ritonga was carried out on Wednesday, 11 November 2009. Ritonga was accompanied by several public prosecutors from the AGO and his lawyer. Ritonga provided the information about his personal relationship with Yuliana Ong; about his illness which was disclosed to Yuliana as messenger. Team 8 asked Ritonga about the recorded conversation of KPK regarding Yuliana's statement that he was supported by RI-1; the position of Jampidum in the case of Chandra and Bibit; the meaning of the code '*duren*', and the message from Yuliana to Ritonga.

q. Meeting with Wisnu Subroto (Former of Chief Investigator of AGO)

The meeting with Wisnu Subroto was held on Wednesday, 11 November 2009. Wisnu provided the information about his acquaintance with Anggodo and his business relation with Anggodo in trading ring and teak wood; his confirmation that he did not know Anggoro, Yuliana and Ari Muladi; and clarification about his name being mentioned in the wiretapped conversation recorded by KPK.

r. Meeting with M. Iriawan (Director Deputy I Bareskrim of the National Police)

The meeting with Kombes Pol M. Iriawan was carried out on Thursday, 12 November 2009. It was held as requested by the National Police, which conveyed officially by Iza Fadri one day before the meeting with Bambang Widaryatmo. Kombes Iriawan was accompanied by several investigators from Bareskrim, which handled the case of Antasari Azhar. The facts were gathered related to the murder charge against Nasrudin with the suspect, Antasari; the raid of Antasari's room and dispossession of his laptop; the issue about the time period of testimonial making and testimonial delivering of Antasari; the issue of the time period of the making of Police Report regarding the alleged abuse of power and bribery conducted by KPK leaders; and the issue about the BAP revoked of Williard Wizard.

s. Meeting with Edy Widjaya (Owner of Duta Motor Show Room)

The meeting with Edy Widjaya was held on Sunday, 15 November 2009. The meeting was conducted based on the request from Edy Widjaya regarding the accusation that Anggodo has given luxury cars to Wisnu Subroto – as recorded in the wiretapped telephone conversation recorded by KPK. Edy Widjaya claimed that Anggodo bought two Mercedes Benz S300, using the name of Anggodo's two children. The price of one car, according to Edy Widjaya, was around Rp 1.6 billion. The purchasing of one of the car is conducted by swapping the BMW owned by Wisnu Subroto, valued at around Rp 500 million, while Anggodo added the remaining amount of Rp 1.1 billion.

D. Verification of the Case Hearing

1. After gathering the dossiers obtained from various parties on the legal proceeding against Chandra and Bibit, Team 8 utilized these data as the basis to conduct a case hearing by summoning the National Police and AGO investigators.
2. The hearing was held on Saturday, 7 November 2009, at 19.00 p.m.
3. To strengthen the verification, Team 8 invited 2 experts from the Office of Police and Attorney General Affairs, Prof. Farouk Muhammad (former of PTIK Governor) and Dr. Ramelan, S.H., M.H (former *Jaksa Agung Muda Tindak Pidana Khusus* or Junior Prosecutor for Special Crimes).
4. In the hearing, Team 8 conducted question and answer sessions to analyze the facts, the evidence and the legal articles used by the National Police investigators. Throughout the hearing, Team 8 positioned itself as public prosecutor analysts in charge of the filing the lawsuit and providing the dossiers and evidences to the court.

5. In the hearing, it was revealed that the National Police investigators only focused on the facts obtained from the first BAP applied by Ari Muladi and to strengthen that information. Some of unverified information had been used to indicate that there was money passed to Chandra and Bibit.

Chapter III: The Findings of Team 8

A. The Allegation of Case Manipulations

On the wiretapped conversation recording that was played in the MK court, some names were mentioned:

- a. Anggoro Widjojo, who is the main suspect in the graft case of PT. Masaro Radiokom being investigated by KPK, provided money aimed to stop the case;
- b. Anggodo Widjojo, the brother of Anggoro, played the main role in fabricating and setting up the legal case against Chandra M. Hamzah and Bibit S. Rianto, with the aid of members of the Police, AGO, KPK, LPSK and some lawyers;
- c. Susno Duadji, the Chief of Criminal Investigations Section at the Headquarter of the National Police, with the code name Truno 3 was mentioned several times. Although he did not took part in the wiretapped conversation, based on Anggodo's statement Susno Duadji played a main role in declaring Chandra M. Hamzah and Bibit S. Rianto as suspects and was highly committed to Anggodo;
- d. Abdul Hakim Ritonga, the current *Jaksa Agung Muda Tindak Pidana Khusus* or Jampidum (Junior Prosecutor for Special Crimes), whose name was mentioned 24 times in the wiretapped conversation, plays an important role in the scheme arranged by Anggodo. Anggodo's partner, Yuliana Gunawan, claimed that the Jampidum has the support from the President of Indonesia (RI-1);
- e. Wisnu Subroto, the former *Jaksa Agung Muda Intelijen* or Jamintel (Junior Prosecutor for Intelligence), plays an active role in designing and communicating with Anggodo, especially regarding the investigation process into the case of Chandra M. Hamzah and Bibit S. Rianto;
- f. Irwan Nasution, a prosecutor at the office of Jamintel, was mentioned as many as 9 times;
- g. Farman, an investigator at the Headquarter of National Police, was mentioned as many as 8 times and played an important role in the design of the BAP for the case of Chandra M. Hamzah and Bibit S. Rianto;
- h. Ketut Sudiarsa and Myra Diarsih are commissioners at the LPSK;
- i. Bonaran Situmeang, Kosasih and Alex are Anggodo's lawyers;
- j. Eddy Sumarsono;
- k. Ari Muladi; and
- l. Yuliana Gunawan.

There is a conspiracy between members of the legal apparatus and civilians. The entire affair gives impression that the common people can resolve legal cases just by offering some amount of money. This practice is commonly known as case-brokering.

B. Investigation of the National Police

1. The Initiative from Antasari Azhar to Offer Testimony

Regarding Antasari Azhar's testimony (based on his recorded conversation with Anggoro Widjojo) and the Report of the alleged bribery case of PT Masaro were used as the basis for

the legal charges against Chandra and Bibit. Team 8 found differences of information from the direct testimony of Antasari Azhar and his testimony to the investigators. At the first meeting with the Team 8 on 7 November 2009, Antasari Azhar testified that his testimony was made on 16 May 2009. However, on the second meeting with the Team 8 on 8 November 2009, Antasari stated that his testimony was made on 16 June 2009. This information is different from those of the National Police investigators, which stated that they learned of the bribery case of Anggoro following the confiscation and search of KPK's laptop on 11 June 2009. Antasari Azhar then made an official report regarding the bribery issue of KPK leaders to the Police as conveyed on 6 July 2009. This difference of information reduced the validity of the Police Report (LP) both as provided by Antasari Azhar or as submitted by the investigators. This difference can cause problems if the case of Chandra and Bibit is brought to the court. Antasari Azhar is a technically a witness that convey the facts to be used by the investigators and the Public Prosecutor (*Jaksa Penuntut Umum*). This is one of the weaknesses of the legal proceeding against Chandra and Bibit. Team 8 concluded that according to the verification results – especially after seeing the recorded video in Antasari Azhar's room at the KPK as the evidence – that **the first initiative to reveal the alleged bribery case of PT Masaro was carried out by Antasari Azhar**. The video shows that Antasari entered his room to access the recorded conversation between himself and Anggoro, which was saved in his laptop. Antasari may have tried to divert the legal problem he faced concerning the murder of Nasrudin Zulkarnaen, by involving the KPK leaders in the legal case of PT. Masaro. Antasari's testimony was based on the recorded conversation between him and Anggoro Widjojo.

2. The Meeting between Susno Duadji and Anggoro Widjojo

On 7 July 2009, KPK had issued a warrant to arrest Anggoro Widjojo, which was handed to Kabareskrim (Sprindik Number 25/01/VI/2009 dated 19 June 2009 and the arrest warrant number KEP-04/P6KPK/VII/2009 dated 7 July 2009). However, on 10 July 2009, Susno Duadji had conducted a meeting with Anggoro in Singapore, supposedly because Anggoro wanted to meet the Kabareskrim to testify on the bribery/extortion supposedly conducted by KPK leaders. The meeting in Singapore was carried out with the consent of the Chief of National Police. At the time, it was not clear whether the investigators examined Anggoro for the purpose of the obtaining an official testimony (BAP). The main point of the testimony was that some KPK leaders were extorting Anggoro. However, Team 8 found that the BAP was not made in the Embassy of Indonesia in Singapore. Legally, the BAP made officially by the Police outside of Indonesia can only be issued in the Embassy of Indonesia. Therefore, the validity of the BAP on Anggoro that becomes the basis of the suspicion against Candra and Bibit can be contested by the legal defense team of Chandra and Bibit. BAP made overseas but not in the embassy of Indonesia is not a strong evidence for the indictment against Chandra and Bibit.

3. The Chronology of the Events of 15 July 2009

The investigation of the case against Chandra and Bibit is based on the chronology made by Anggoro Widjojo and Ari Muladi. The BAP of Ari Muladi is based on this chronology. It stated the date when Ari Muladi gave the money to Ade Rahardja, which then passed by Ade Rahardja to some of KPK leaders. The chronology was made following the meeting on 10 July 2009 between Susno Duadji and Anggoro in Singapore. This chronology, which was used as evidence by the investigators, had been retracted by Ari Muladi, who later testified that the money was given to a middleman named Yulianto. With this annulment, the chronology can no longer be used as strong evidence. It does not mean that the first confession of Ari Muladi cannot be trusted, but it does mean that Ari Muladi cannot be trusted. Considering the lack of credibility of Ari Muladi, using the chronology as evidence weakens the investigators' charge against the suspects. However, the investigators seem to insist to use this order of event according to Anggoro's chronology.

4. Indicators

The investigators used indicator to support the validity of the chronology. The indicator used by the investigators is the KPK vehicle that entered the area of Bellagio and Festival market on the dates mentioned in the chronology. The investigators had obtained a picture of the KPK vehicle entering the area, which was considered as proof. However, when Team 8 asked whether the car was the one used by Bibit or Chandra, the investigators could not provide clear information. Apart from that, those cars have different license plate than registered KPK cars. Therefore, this indicator cannot be used as the evidence to strengthen both the BAP of Ari Muladi and the chronology. This indicator was not the same as the one used in the charge against Polycarpus in the murder case of Munir. It shows that the evidence used by investigators is not good enough to strengthen the charge against Chandra and Bibit regarding the bribery money and extortion of Ari Muladi.

5. The Testimony of Ade Rahardja

Ade Rahardja, the person who supposedly delivered the money from Anggodo via Ari Muladi to some of KPK leaders, stated in his BAP that he did not know Ari Muladi. Ade Rahardja also denied that he was at the Bellagio or Festival market at the time indicated in the chronology. Even if it is true that Chandra and Bibit received the money from Ari Muladi as the chronology indicates, then Ade Rahardja has to be declared as a suspect by the investigators. However, up to his meeting with Team 8, Ade Rahardja has not been declared as a suspect. This demonstrates that the legal proceeding conducted by the investigators or the public prosecutor is not strong enough to bring the case to court.

6. The Testimony of Bambang Widaryatmo

Although the chronology mentioned that Bambang Widaryatmo received the money, up to his meeting with Team 8, there was no BAP requirement by the investigators regarding this matter. Bambang Widaryatmo was asked to provide the facts, which had been included in the BAP by the investigators regarding the section on the abuse of power. The lack of BAP will further weaken the legal proceeding against Chandra and Bibit if the case is brought to court because the chronology used by the investigators is inconsistent. It seems that the chronology has been used selectively in order to link Chandra and Bibit with extortion.

7. The Wiretapped Telephone Conversation of Anggodo as Recorded by KPK

Most of the wiretapped conversation recorded by KPK, which had been played for the public at the MK on 3 November 2009, indicated that the investigators changed the BAP to suit the chronology made by Anggodo. The time period of Anggodo's recorded conversation was made in July-September 2009, which is similar to the time period of the BAP and the charge filed against Chandra and Bibit.

There were some sentences in the conversation indicating that Anggodo had influenced the investigators, AGO and the lawyers to coordinate the BAP with the chronology he made.

8. The Wiretapped Telephone Conversation between Lucas and Susno Duadji as Recorded by KPK

KPK started investigating the alleged bribery related to Century Bank since 25 November 2008. Regarding the investigation, KPK confessed to have the recordings of wiretapped conversation, among them, the conversation between Lucas and Susno Duadji. The dialogue was about the clearing of savings owned by Budi Sampoerna. In the effort of the clearing, Susno Duadji issued two of Letters of Clarification dated 7 April 2009 and 17 April 2009.

In the meeting with Team 8, Susno Duadji had denied that he received bribe money from Budi Sampoerna's bank account savings. He said that he arranged the scenario to make it as

if he would receive the bribe money. The purpose was as a wiretapping training for KPK and also as a counter-intelligence training. However, when he was asked whether the third party (Lucas) knew that the action was part of a counter-intelligence training, the answer is no. Although he denied the issue, Susno Duadji confessed that there was a meeting held in Ambhara Hotel and he had taken part in designing the plan to receive the money by using a bag, which he claimed was an empty bag. Team 8 doubted the information and the denial of Susno Duadji regarding the 'pretend-reception' of the bribe money. Afterwards, the wiretapped conversation recorded by KPK made Susno Duadji felt uncomfortable and led to the occurrence of the term of "Small lizard and Crocodile" in the interview with Tempo Magazine.

C. The Extortion Allegedly Conducted By Chandra M. Hamzah and Bibit S. Rianto

1. Oddities in the Construction of and Change in the Case

Initially, the investigators build the case based on the testimony and official report made by Antasari Azhar, which contained the issue of alleged bribery or extortion. On 7 August 2009, in the case hearing with the AGO, there is evidence of abuse of power by the two suspects, which violates Indonesian Law number 30 year 2002 article 21 sub-article 5 regarding KPK.

The construction of the case regarding the extortion (Indonesian Law number 31 year 1999 article 12 b and 15 regarding Bribery and Extortion) began *after* the Public Prosecutor (*Jaksa Penuntut Umum*) issued the warrant (P16) stating that abuse of power occurred in the case of the extortion. On 15 September 2009, Chandra M. Hamzah and Bibit S. Rianto were declared as suspects and are charged with extortion and abuse of power.

2. Weaknesses in the Charge of Extortion

The investigators only focused on the information obtained from Ari Muladi's testimony (BAP) that KPK leaders had initially asked for some amount of money (*atensi*) from Anggoro. However, Ari Muladi's first BAP on 11 July 2009 stated that he only made contact with Ade Rahardja and not the KPK leaders. According to Ari Muladi, he obtained the information of the request for money by KPK leaders from Ade Rahardja. Even this statement by Ari Muladi was later retracted (BAP on 18 August 2009 and the Follow-Up BAP on 26 August 2009) and was replaced by a new testimony stating that he never met Ade Rahardja or the KPK leaders.

Ade Rahardja in his testimony also confirmed that he never met Ari Muladi regarding the alleged bribery or extortion by KPK Leaders. Ade also denied that he received money from Ari Muladi and denied all the claims within Anggoro's chronology.

The investigators could not show convincing evidence before the Team 8 that there was extortion conducted by KPK leaders. The investigators have to prove that the information obtained from Ari Muladi and Ade Rahardja is true. However, the investigators stated before the Team 8 that they did not have other witness or evidence regarding the extortion conducted by KPK leaders. The investigators only have hints, which had been retracted by the testifying person.

Regarding the initiative for extortion, the chronology made by Anggoro stated that on 15 July 2009 he had asked a favor from Ari Muladi, who has friends in KPK, to "deal with" the case of PT Masaro Radiokom following the KPK's raid of the company on 29 July 2008. Ari Muladi had confirmed that Anggoro did ask for his assistance to resolve the case of PT Masaro Radiokom. Therefore, it is conclusive that **the initiative to conduct the bribery came from Anggoro/Anggodo.**

3. Lack of Strong Legal Evidence That Money Had Been Passed to KPK Leaders

The police focused on the information obtained from Ari Muladi's first testimony (BAP on 11 July 2009) that KPK leaders had been given money via the middleman, Ade Rahardja. The other information used by the investigators was the testimony made by Edy Sumarsono that during the meeting with Antasari Azhar in Malang on 29 November 2008 he had heard Ari Muladi's confession of having passed money to M. Yasin and Ade Rahardja.

However, Ari Muladi changed his first BAP on 11 July 2009, and made a new testimony in the BAP changes (BAP on 18 August 2009 and Follow-Up BAP on 26 August 2009) that he *did not* hand over any money to Ade Rahardja. He used the money received from Anggodo for his personal use and the rest was given to a middleman named Yulianto.

Ade Rahardja also denied all of Ari Muladi's testimony and claimed that he had never met Ari Muladi. The person mentioned as Yulianto, up till now has never shown up. Ari Muladi did not know the address, phone number or anything related to Yulianto's identity.

The chronology made by Ari Muladi and Anggodo had claimed that Bibit Samad Rianto received money on 15 August 2008 at the Bellaggio Residence. This has been proven to be false as both have alibis. Bibit was in Peru at that time. Chandra stated that on the date of the hand over of the money, he was not present at the Festival market. Despite these facts, the investigators persisted on using the testimony of Ari Muladi in accordance to the first BAP even though some parts of it had already been retracted. The investigators only use hints to indicate that some of the cars at the Bellaggio Hotel and the Festival market belong to KPK at the time indicated in the chronology, the parking ticket on behalf of KPK's cars at the Bellaggio Hotel and the Festival market, and a lie detector test to prove that the statement retracted by Ari Muladi is not true. The identification paper attained from a village in Surabaya also stated that none of its citizen was named as Yulianto. There are other clues that supposedly indicated Ade Rahardja, Chandra M. Hamzah and Bibit S. Rianto were at the time and place mentioned in the chronology made by Anggodo.

4. Antasari Azhar's Doubts of the Extortion Attempt by Chandra M. Hamzah and Bibit S. Rianto

Antasari Azhar stated that he was unsure whether Chandra M. Hamzah and Bibit S. Rianto received money from Anggoro. Antasari Azhar also claimed that the testimony he made was based on Anggoro's testimony, so that none of the events in the chronology was witnessed or known directly by Antasari Azhar.

5. Ari Muladi as Both Witness and Suspect

Ari Muladi was declared as a suspect by the Police on 18 August 2009. He was charged with fraud/embezzlement and forgery related to the use of money provided by Anggodo, which was intended to be given to the KPK leaders but was instead used by Ari Muladi for his own use while giving the rest to Yulianto. According to Ari Muladi, the money received from Anggodo are as follows:

- US\$ 404,600 (Rp 3,750,000,000) on 11 August 2008.
- Rp 400,000,000 on 13 November 2008.
- Dollar Sin\$ 124,920 (Rp 1,000,000,000) on 13 February 2009.

The charge of forgery against Ari Muladi was in relation to the forgery of a letter (Number R-85/22/VI/2009 dated 5 June 2009) that revokes the travel ban on Anggoro Widjojo Cs, which was addressed to the General Director of Immigration, Director of Investigation and Immigration Affairs Enforcement. The letter contains the signatures of Chandra M. Hamzah and Bibit S Rianto.

6. Anggodo Widjojo Was Not Declared as a Suspect

Throughout the investigation, the Police have not declared Anggodo as a suspect in this case. The chronology made by Anggodo on 15 July 2009 clearly shows that the initiative to “deal with” the case of PT Masaro Radiokom was made by Anggodo. He had asked this to Ari Muladi, who has friend in KPK, as a favour. In Ari Muladi’s BAP on 18 August 2009, he stated that Anggodo asked Ari Muladi a favor to resolve the case of PT. Masaro Radiokom. Therefore, the person who had initiated and provided the money for the bribery is involved in this case and should have been declared as a suspect.

7. Changes in Ari Muladi’s BAP

Ari Muladi had changed his first BAP with a new testimony that he had never met and communicated with Ade Rahardja. Ari Muladi testified that he had never heard of Ade Rahardja asking for money to resolve the case of PT Masaro and he had never given any money to Ade Rahardja. Ari Muladi also testified that he had used the money obtained from Anggodo’s for his own use and the rest of the money was given to Yulianto.

Ari Muladi also stated that the letter that revokes the travel ban on Anggoro Widjojo Cs is a fake and was made by Ari Muladi and Yulianto on 6 June 2009 at the Matraman area.

Despite the changes of the BAP particularly on the testimonies mentioned above, the investigators persisted in using the first, unchanged BAP (11 July 2009) and used lie detector test to prove that the second BAP by Ari Muladi was false. Team 8 questioned the accuracy and the technical operation of the lie detector test.

D. Regarding the Abuse of Power

1. KPK’s Standard Operating Procedure and the Issuing and the Revocation of the Travel Ban Letter

The process used to issue and later revoke the travel ban letter had been conducted in accordance with KPK Standard Operating Procedure (SOP). It is regulated in the Letter of KPK Chief Number KEP-447/01/XII/2008 regarding the Alteration to the Decision of KPK Chief Number KEP-33/01/I/2008 regarding the Tasks of KPK Chief for 2007-2011. KPK has the legal authority to create the mechanism to determine policies as regulated in the Indonesian Law on KPK article 25 sub article (2). If there is a problem regarding implementation authority, then this does not fall under domain of Criminal Law, but in the State Administration Court (*Pengadilan Tata Usaha Negara*). However, the investigators persisted in considering that KPK SOP violates the Indonesian Law on KPK.

2. Lack of Evidence That the Issuing and the Revocation of the Travel Ban Letter Were Forced

Tumpak Hatorangan Panggabean, the Acting KPK Chief, stated that there is no forced action involved and no one, including General Director of Immigration, was forced in the issuing and revocation of the Travel Ban Letter signed by Chandra M Hamzah and Bibit Samad Rianto. The Law stated that evidence of coercion is needed in the case against Chandra and Bibit. However, the investigators insisted that there was the abuse of power based on the interpretation of the Law on KPK although there was no official evidence concerning the collective approval in the issuing of the letter.

3. Former KPK Leaders Have Implemented the Same Procedure Before

There is an internal convention or agreement within KPK since it first operated up until the present that the issuing or revocation of the Travel Ban Letter can be made without any meeting of the collective leadership. The letter can be signed by the KPK leader who handles

the related case. Its copy is then distributed to the other KPK leaders. This convention is confirmed by the statements of some of the former KPK leaders.

4. The Case against Arthalita Suryani and the Revoked Travel Ban Letter for Djoko Chandra

KPK has been investigating the connection of money flow from PT. Mulia Graha Tatalestari to Arthalita Suryani and the public prosecutor, Urip Tri Gunawan. KPK has gathered evidence that the money in Joko Chandra's bank account is linked with the money used by Arthalita Suryani to bribe Urip Tri Gunawan. This assumption was false as KPK obtained more accurate information that the money was given to *Yayasan Kesetiakawanan dan Kepedulian Sosial*. At that time, the case of Arthalita and Urip Tri Gunawan had already been examined and resolved in the court, so KPK considered that there was no reason to issue a Travel Ban Letter for Joko Chandra.

5. Suspension of the Investigation of Anggoro Widjojo due to the *in Kracht* Verdict on the Case of SKRT

The police's presupposition in relation to the connection between the suspended of the investigation on PT. Masaro Radiokom and the money flow from Anggoro to KPK leaders had been denied. KPK stated that the delay of the investigation is because it is still following the *in kracht* verdict against Yusuf Erwin Faisal given by the Tipikor court on the corruption case of MS Ka'ban related to land-status change in Tanjung Siapi-Api on 23 March 2009. In this case, Anggoro has been proven guilty of bribing Yusuf Erwin Faisal. According to KPK, the delay in investigation by waiting for the court verdict is one of its strategies to simplify the process of building evidence against Anggoro in the case of PT. Masaro Radiokom. Chandra M. Hamzah stated that there was no emotional relationship between himself and MS Ka'ban. Chandra had only met MS Ka'ban for several of times in the formal events.

Chapter IV: Verification Results From the Case Hearing

A. Article 12E *Juncto* Article 15 of the Indonesian Law Regarding Corruption

Eradication

1. Lack of Evidence from the Investigators

- a. There is no clear evidence obtained by the investigators in building the argument that Chandra M. Hamzah and Bibit S. Rianto had conducted extortion as referred to in Article 12 E of the Indonesian Law regarding Corruption Eradication, or had attempted, assisted or conspired to conduct corruption acts as referred to in Article 15 of the Indonesian Law regarding Corruption Eradication.
- b. The lack of supporting evidence is indicated by the Police's inability before Team 8 to consolidate the chronology of money transfer from Ari Muladi to Bibit Samad Rianto and Chandra M. Hamzah or to Ade Raharja, which was based on the testimonies of Antasari Azhar, Ari Muladi, and Ari Muladi's BAP dated 18 August 2009 (Second BAP); the statement of Edy Soemarsono; and the statements of Chandra M. Hamzah and Bibit S. Rianto
- c. Chandra M. Hamzah dan Bibit S. Rianto, as suspects, had denied receiving money. Therefore, they are not responsible to prove that they do not receive money. In legal verification, there is no negative verification. The task of to find evidences should be carried out by the party that charges the suspect. In this context, it is the responsibility of the investigators. However, the investigators only have the testimony of Ari Muladi and this is not strong evidence as it has no verification value.

- d. The evidence is weak. This is indicated by the proof of cars that went in and out of the Festival market and the Bellagio hotel, which is still a form of building evidence. The information about the KPK's car has to be synchronized with the other evidence (the witness' testimony, the suspect's statement). If Ari Muladi's statement is used as the means to build evidence, then it is not strong enough or cannot be used as that information can be perceived as Ari Muladi's effort of self-defense.

2. Weak Evidence used by the Investigators

- a. In order to determine whether a person has committed a crime then the criteria as referred to in Article 12 E and Article 15 of the Indonesian Law regarding Corruption Eradication must be met. The criteria in Article 12 E are:

- 1) It involved of Government officer(s) or the administrator(s);
- 2) It demonstrated the intent to gain benefit for personal interest or others by violating the law or by abuse of power;
- 3) It forced a person to provide something, or to pay, or to receive payment, or to deduct payment, or to perform tasks for personal interest;

Whereas the criteria in Article 15 are as follows:

- 1) It involved everyone; and
- 2) It is an attempt to experiment, to assist or to conspire in corruption acts.

- b. Team 8 examination concluded that the investigators do not have enough evidence to prove the **intent to gain benefit for personal interest or others by violating the law**. The evidence gathered by the investigators regarding the flow of money flow Anggoro Widjojo is discontinued in Ari Muladi (there is a missing link). The evidence that there is **an attempt to experiment, to assist or to conspire in corruption acts** also cannot be proven by the investigators.
- c. The testimonies of Edi Soemarsono and Antasari Azhar are those attained from other people's statement (*testimonium de auditu*), thus it cannot be used as the evidence as stated in Article 185 sub-article (1) KUHAP *juncto* Article 1 number 27 KUHAP. Apart from that, the information gathered from Edy Soemarsono is a personal opinion or an assumption. Information obtained from a third party cannot be used as a witness testimony as stated in Article 185 sub-article (5) KUHAP.
- d. The testimony of Ari Muladi on the money transfer, even if it is true, is also an independent testimony so it cannot be used as the evidence (*unus testis nullus testis*). One witness is not the only witness especially as the testimony had been retracted. The evidence gathered by the investigators also cannot be verified because it was only an assumption made by the investigators and not based on information gathered from witnesses.
- e. The evidence presented before the Team 8 indicated that the initiative to the bribery came from **Anggoro Widjojo**, who had asked Anggoro Widjojo to contact KPK leaders following the raid on PT. Masaro. Therefore, what had happened was attempted bribery and not extortion as claimed by Anggoro Widjojo/Anggoro Widjojo. Thus, Anggoro Widjojo, Anggoro Widjojo and Ari Muladi have to be declared as suspects for the attempt to bribe both of the current suspects. Ari Muladi can also be charged on the articles regarding fraud and/or embezzlement (cumulative). Based on previous descriptions, there is no criminal charge against Chandra M. Hamzah and Bibit S. Rianto, as both had not been proven to commit a crime (*nulla poena sine crimine*).

B. Article 421 of the Indonesian Penal Code *Juncto* Article 23 of the Indonesian Law Regarding Corruption Eradication

1. Lack of the Evidence from the Investigators

- a. There is no evidence obtained by the investigators that proves Chandra M. Hamzah and Bibit S. Rianto are guilty of abuse of power as referred to in Article 421 of the Indonesian Penal Code *juncto* Article 23 of the Indonesian Law regarding Corruption Eradication.
- b. In the Team 8 inquiry, the investigators did not present enough evidence to prove that Chandra M. Hamzah and Bibit S. Rianto had forced immigration officials to ban Anggoro Widjojo from travelling overseas or had demanded the immigration officials to revoke the travel ban on Joko S. Tjandra.
- c. KPK leaders testified before Team 8 that the travel ban on Anggoro Widjojo and the revocation of the travel ban on Joko S. Tjandra had been made in accordance to existing mechanisms, which had been implemented since the first period of KPK operation.

2. Weak Evidence Proposed by the Investigators

- a. To prove whether a person has committed abuse of power then the criteria as referred to in Article 421 of the Indonesian Penal Code *juncto* Article 23 of the Indonesian Law regarding Corruption Eradication must be met. The criteria contained in Article 421 of the Indonesian Penal Code are as follows:
 - 1) It was committed in official work;
 - 2) It demonstrated abuse of power; and
 - 3) It forced a person to perform, or not to perform, or allow an event to take place.

Article 23 of the Indonesian Law regarding Corruption Eradication contains the minimum and maximum of criminal stipulation for those who violate Article 421 of the Indonesian Penal Code. Therefore, what investigators/public prosecutor must do is to prove that the criteria within Article 421 of the Indonesian Penal Code are met.

- b. The evidence used by the investigators to charge Chandra M. Hamzah dan Bibit S. Rianto with abuse of power is **very weak because there is no witness** who can testify that there is any forced act in the travel ban of Anggoro Widjojo and the revoked travel ban on Joko S. Tjandra.
- c. In investigating Chandra M. Hamzah and Bibit S. Rianto regarding the travel ban on Anggoro Widjojo and the revoked travel ban on Joko S. Tjandra, the investigators has violated the **principle of collegial collective**; the status of Anggoro Widjojo **is not as a suspect**; and Anggoro Widjojo **was not investigated beforehand**. Therefore, the existence of the abuse of power was decided upon. Based on the principle of collegial collective, KPK leaders testified to the Team 8 on 5 November 2009 that KPK already has an internal mechanism to conduct inter-departmental dialogue that relate to collegial collective decision-making. KPK has the power to manage the mechanism in stipulating the policy as referred to Article 25 sub article (2) of the Indonesian Law on KPK, which has been implemented since KPK first operated. There is also a convention/agreement within KPK that the travel ban can be issued by the Commissioner who is in charge of the case. This agreement has been regulated in the Letter of KPK Chief Number KEP-447/01/XII/2008 regarding the Alteration to the Decision of KPK Chief Number KEP-33/01/I/2008 regarding the Tasks of KPK Chief for 2007-2011.
- d. Regarding the travel ban on Anggoro Widjojo as a **suspect**, Article 12 sub article (1) b of the Indonesian Law regarding KPK emphasises that “in executing the investigation, and prosecution as referred to Article 6 c, KPK has the authority to instruct the related agency to ban **a person** from travelling oversea”, which means that KPK has the power to order the related agency (Immigration) to ban a person from travelling oversea regardless of the

status of that person as long as it related to the corruption case being investigated by KPK. The travel ban to a person issued by KPK does not mean the person has to be a suspect.

- e. Regarding Anggoro Widjojo, the ban of his traveling oversea was issued because KPK was investigating another case, the case of Yusuf Erwin Faisal and it was already completed (*incracht*). In that case, Anggoro bribed Yusuf Erwin Faisal and an official in forestry department (MS Kaban). The investigators attempt to link the suspended handling of the case of PT Masaro and Chandra M. Hamzah's supposed debt of gratitude toward MS Kaban does not make sense.
- f. The revocation of the travel ban on Joko S. Tjandra also did not violate the any legal mechanism. KPK was investigating the connection of the money flowing from PT. Mulia Graha Tatalestari to Urip Tri Gunawan and Artalyta Suryani. The court has found that Joko S. Tjandra is not involved in the case of the bribery carried out by Artalyta Susryani to Urip Tri Gunawan, therefore KPK revoked the travel ban. Based on these descriptions, Team 8 concluded that there is not enough evidence of abuse of power as charged by the investigators.

Chapter V: Conclusions and Recommendations

Based on the verification, Team 8 has formulated its conclusions as well as recommendations, which are as follows:

A. Conclusions

1. Legal Proceedings on Chandra and Bibit

- a. At first, the investigation process of the suspicion on the bribery and/or extortion in the case of Chandra and Bibit is conducted in the usual manner (no fabrication), based on the following reasons:
 - 1) Antasari Azhar's testimony;
 - 2) Police Report submitted by Antasari Azhar;
 - 3) Conversation recorded between Antasari Azhar and Anggoro in Singapore saved in Antasari Azhar's laptop at KPK;
 - 4) Anggoro's testimony on 7 July 2009;
 - 5) Anggoro's statements on 10 July in Singapore; and
 - 6) Ari Muladi's testimony.
- b. In the process, the Police could not find the evidence of the alleged bribery and/or extortion, however the Police seemed to shift the case into suspicion of the abuse of power by Chandra and Bibit by using the dossiers as follows:
 - 1) Letter of Travel Ban on Anggoro; and
 - 2) Letter of Travel Ban and Revoked of Travel Ban on Djoko Tjandra.
- c. The National Police does not have enough evidence to indict Chandra and Bibit on the basis of abuse of power according to Article 23 of the Law on Corruption and Article 421 of the Penal Code (KUHP), and extortion based on Article 12 (e) of the Law on Corruption, and its trial based on Article 15 of the Law on Corruption regarding Criminal Action.
- d. At the case hearing on 7 November 2009, the public prosecutor arguing for the case against Chandra and Bibit also appraised that the evidences provided by the investigators were weak.

- e. The money circulation passed from Anggodo Widjojo to Ari Muladi is discontinued and there is no proof that the money is given to any of the KPK leaders.

2. Professionalism of Investigators and Prosecutor

Team 8 concludes that the professionalism of the Police and prosecutor from the Attorney General Office (AGO) is so weak considering that the suspicions and the charges are not supported by strong facts and evidences. The tendency to “follow orders” among investigators is still strong, therefore investigators and public prosecutors are unable to develop their findings objectively. There are indications of a plot to fabricate. Instructions from superiors are sometimes made to fulfill the personal interests of the superior.

3. Case-Brokering

In the process of verification conducted by Team 8, there are strong indications of the practice of case-brokering. It is not only taking place within the Police rank, the AGO or the legal lawyers, but also at the Corruption Eradication Commission (KPK) and the Victim and Witness Protection Agency (*Lembaga Perlindungan Saksi dan Korban* or LPSK). Even in the other cases, the illegal court-mafia also reaches the notary profession and lower-courts.

4. Institutional Reform

Team 8 also found that there are institutional and personnel problems within the Police, the AGO, the KPK and the LPSK have harmed the effectiveness of those agencies in executing their tasks and responsibilities.

B. Recommendations

Based on the conclusions above, Team 8 gives the recommendations to the President as follows:

1. After analyzing the dossiers, the weaknesses of the evidences both material and formal provided by the investigators; and for the sake of the credibility of the legal system and the law enforcement in an objective and equitable way; and also to reinforce public faith in the justice and the legal system, the legal proceedings on Chandra M. Hamzah and Bibit S. Rianto should be halted. In relation to this, Team 8 gives the following recommendations to the President:
 - a. The police should issue a Letter to Stop the Investigation (*Surat Perintah Penghentian Penyelidikan* or SP3) if the case is still handled by the Police;
 - b. The AGO should issue a Letter to Stop the Prosecution (*Surat Keterangan Penghentian Penuntutan* or SKPP) if the case already handed over to public prosecutor’s office; or
 - c. If the AGO suggests that the public demands that the case should be dropped, then based on the Principles of Opportunity, the AGO can delay the case.
2. After examining the institutional and personal problems that exist within the law enforcement authorities, some weak points have been identified. Team 8 gives the following recommendations to the President to address the public sense of justice by:
 - a. Sanctioning State officials that are responsible for the forced legal proceedings and reform the Police and the AGO; and
 - b. Respectfully reform the institutions and personnel of the Police, the AGO, the KPK and the LPSK. In order to reform those law enforcement authorities, the President can order a government audit by an independent agency in order to identify the problems and drawbacks within those agencies.

3. As the law enforcement authorities has been damaged by the pervasiveness of case-brokers within their ranks, the President needs to prioritise on the elimination of case-brokering practices within the entire law enforcement agencies including the courts and the legal profession; starting with a comprehensive investigation of the court-mafia practices involving Anggodo Widjojo, Ari Muladi and related law enforcement apparatus.
4. In other related cases, such as the alleged corruption case involving Masaro; the legal proceedings against Susno Duadji and Lucas in relation to the savings clearing owned by Budi Sampoerna in Century Bank; and also the case of Forestry Minister's telecommunications procurement project, should be completed as well.
5. After reviewing all the criticisms and inputs provided regarding the strategic weaknesses of the law enforcement agencies and also the lack of inter-agency coordination, the President is advised to establish a National Commission that will formulate a comprehensive program that include clear guidelines and measures in reforming the law enforcement agencies including the legal profession and organizations, which is aimed to reinforce the principles of law supremacy, to uphold the due processes of the law, and to follow the principles of justice and human rights.

Chapter VI: (Not) The End

On 17 November 2009, Team 8 presented its recommendations. As explained earlier, these included a halt to the prosecution of Bibit and Chandra, punishment for officials guilty of wrongdoing and the establishment of a state commission to implement institutional reforms of law enforcement agencies. The president said he would respond in a week.³

On 23 November 2009, the president made a speech responding to the Team 8's findings. He said that it would be better if the Bibit-Chandra case were settled out of court, but did not call for the case to be dropped. The president also said there was a need for reforms within the National Police, the AGO and the KPK. His speech caused confusion among Team 8 members and provoked a protest from activists who symbolically threw in their towels as a way of criticizing what they judged to be the president's unconvincing response.

On 3 December 2009, the president was officially informed that charges against Bibit and Chandra had been dropped.⁴ They were released from police custody.

On 8 December 2009, Bibit and Chandra returned to their office in KPK. They were to resume their position, which was temporarily held by Waluyo dan Mas Achmad Santosa throughout the investigation, and were reinstated as leaders of KPK.⁵

Overall, the entire "Cicak vs Buaya" fiasco is a classic case of a PR-battle that spun out of control. What was essentially a fight over operational jurisdiction had been transformed into a focal point for channelling long-repressed public disapproval of corruption within the ranks of law enforcers. With its near-stereotypical cast of characters, the case had even penetrated the imagination of the popular media. Whether this signals an actual reform of the Indonesian legal and law enforcement system remains to be seen.

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⁴ See Andriyanto & Aswadi 2009; Karana 2009; and Maulia 2009.

⁵ See Tempo 2009.

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Appendix: Background Chronology

The following are the chronology of events, starting from mid-2009 that led to the formation of Team 8 (2 November 2009). It includes elements drawn from various testimonies that are already made available to the public.⁶

- | | |
|-----------------|---|
| 16 June 2008 | The KPK probes then legislator Yusuf Emir Faisal over allegations of receiving bribes from telecommunications equipment provider PT Masaro Radiokom, owned by Anggoro Widjojo. |
| 29 June 2008 | The KPK raids Masaro's office, uncovering receipts of bribe payments to several prosecutors and legislators to drop a graft case linking the company to a Forestry Ministry telecommunications procurement project. |
| 2 July 2008 | The KPK names Anggoro a suspect for allegedly bribing lawmakers. |
| 26 July 2008 | Anggoro flees to Singapore. |
| 28 August 2008 | The KPK slaps a travel ban on Anggoro. |
| 11 October 2008 | Then KPK chairman Antasari Azhar meets with Anggoro in Singapore. |
| 2 May 2009 | Antasari is arrested on charges of murdering prominent businessman |

⁶ See Jakarta Post 2009 and IMC 2009.

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- 6 April 2009 Yusuf Emir gets 4.5 years in prison for receiving bribes from Anggoro in an attempt to help him secure the telecommunications procurement project. The verdict also includes bribery for clearing part of a protected forest for the proposed Tanjung Api-Api port in South Sumatra.
- 16 May 2009 Suspended KPK chairman Antasari testifies to police and prosecutors that four KPK deputies and officials received bribes from Anggoro.
- 19 June 2009 Anggoro is declared a suspect by the KPK for allegedly bribing legislators to secure the telecommunications procurement project. (The KPK could not do so before the Attorney General's Office suspended in May bribery charges against Anggoro.)
- 30 June 2009 Police chief detective Comr. Sr. Susno Duadji accuses the KPK of tapping his mobile phone. Susno is reportedly tapped demanding Rp 10 billion from Boedi Sampoerna to clear the businessman's savings stuck in the troubled Bank Century.
- 10 July 2009 Susno meets with Anggoro in Singapore.
- 13 July 2009 President Susilo Bambang Yudhoyono (SBY) leads a coordination meeting on corruption eradication, attended by officials from the KPK, the police and the Attorney General's Office. Police chief Gen. Bambang Hendarso Danuri says there is no discussion of the possible arrest of KPK deputies.
- 12 July 2009 The KPK and the police intensify the hunt for Anggoro.
- 15 July 2009 Ari Mulyadi, a key witness in the bribery case involving KPK deputies Chandra M. Hamzah and Bibit Samad Riyanto, revokes his testimony to the police. He says the money from Anggoro was never given to the KPK officials.
- 5 August 2009 Antasari's testimony is leaked to the media, suggesting KPK leaders received bribes from Anggoro.
- 9 September 2009 The KPK announces it is investigating Susno's role in the Bank Century case.
- 15 September 2009 Police declare KPK deputies Chandra and Bibit suspects for abuse of power in imposing the travel ban on Anggoro.
- 28 September 2009 Chandra and Bibit file a report against Susno to the police internal affairs division for abuse of power.
- 29 September 2009 Police declare Antasari a suspect for violating the KPK ethics code in meeting with a suspect (Anggoro).
- 2 October 2009 Susno comes to the KPK headquarters to sooth relations between the two institutions.
- 5 October 2009 The police internal affairs division probes Susno for abuse of power.
- 6 October 2009 SBY issues a presidential decree appointing Tumpak Hatorangan Panggabean acting KPK chairman to replace Antasari, and Mas Achmad Santosa and Waluyo acting deputy chairmen to replace Chandra and Bibit.
- 7 October 2009 The police internal affairs division clears Susno of all charges.
- 26 October Recordings of wiretapped conversations between Anggoro and his brother Anggodo with high-ranking prosecutors and police officers

- 2009 discussing in July a plot to frame KPK leaders is leaked to the media.
- 27 October 2009 Tumpak confirms the recordings exist.
- 29 October 2009 The Constitutional Court (MK) agrees to postpone declaring Bibit and Chandra as suspects, and allow the KPK to disclose the recordings and other supporting facts that may strengthen their authority to combat corruption on 3 November 2009.
- 29 October 2009 Bibit and Chandra were arrested for obstructing police investigation by shaping public opinion through media statements and public forums.
- 2 November 2009 SBY formed Team 8.