

CODE OF ETHICS IN BPK:
ROLES AND FUNCTIONS OF
THE HONORARY COUNCIL, SECRETARIAT GENERAL AND PRINCIPAL
INSPECTORATE

Indonesia Case

BACKGROUND

Task Force of Audit and Ethics (TFAE) EUROSAI will conduct seminar in January 2014, organized and hosted by *Tribunal de Contas* of Portugal. The seminar is scheduled to share the information and experiences of SAIs in order to improve, if necessary, *ISSAI 30 (INTOSAI Code of Ethics)*". At the same time, the seminar is an opportunity to discuss and explore some of the problems and changes in ethical management, through an exchange of views and approaches, and to collect SAI's ideas and opinions on the draft proposals of the Task Force. Additionally, and considering that ISSAI 30 is under review, this seminar presents itself as a forum where ideas about this review can also come up.

In this regard, BPK is invited to participate and share their experiences and opinion, mainly about its units handling code of ethics. BPK has the honorary council of code of ethics that can be elaborated to broaden and enrich TFAE for the purpose of the seminar. In addition, we will also provide other units involved in dealing with code of ethics.

BPK'S CODE OF ETHICS

The 1945 constitution of the republic of Indonesia article 23e cite that "for the purpose of auditing financial management and accountability, **a free and independent** audit board shall be established". We bold the word "a free and independent" to emphasize that this audit board has certain values to be uphold. This starts our understanding that BPK has a strong and solid mandate to become independent institution.

Besides the constitution, BPK is also based on some laws to become independent, act impartially, and professionalism. For example, Act no 15/2006 regarding BPK mention that BPK is a free and independent state institution to audit state management and financial report.

In terms of code of ethics, based on Law no 15/2006 article no. 29 (1), BPK should have code of ethics which contain norms to be adhered by Board Members and auditors on duty to preserve BPK's dignity, image and credibility in high level.

The code of ethics is an elaboration of BPK's core values, which are Integrity, Independence, and Professionalism. Integrity is the quality, nature, or circumstances that indicates coherent whole, honesty, hard effort, and adequate competence, Independence is an attitude and actions in conducting audit impartially and not to be influenced by anyone, Professionalism is the ability, expertise, and commitment to the profession in performing duties.

The code of ethics must be manifested in attitude, words, and action of Board Members, Auditors, and any other BPK's Employees as citizen, the State Apparatus/State officials as well as in performing audit.

An example of the code of ethics is members of BPK, Auditor, and Other BPK's Employee shall not:

- a. Show affiliation and support to the particular political party;
- b. Impose personal interest to others and / or society;
- c. Carry out activities, either individually or with others, that directly or indirectly result in state loss, and
- d. Engage in activities that could benefit certain groups by abusing his status either directly or indirectly.

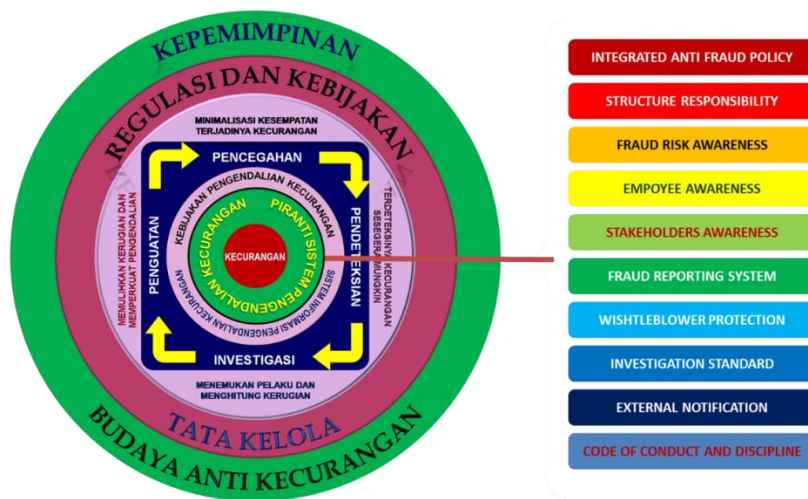
When we see the code of ethics, it has aligned with ISSAI 30 code of ethics.

ISSAI 30	BPK CODE OF ETHICS	CORE VALUES
INTEGRITY	V	INTEGRITY
INDEPENDENCE, OBJECTIVITY AND IMPARTIALITY	V	INDEPENDENCE
PROFESSIONAL SECRECY	V	PROFESSIONALISM
COMPETENCE	V	PROFESSIONALISM

BPK has particular units to uphold code of ethics for the legal, credibility and best practice reasons. As mentioned before, we have strong mandate from our constitution. In addition, to uphold independency and integrity, BPK should have code of ethics (Art. 29 verse (1) Law 15/2006). Code of ethics itself is regulated at BPK Regulation No. 2 Year 2011, concerning The Code of ethics of BPK. This code of ethics will be enforced by the honorary council (Art. 30 verse (1) Law 15/2006). BPK, then, elaborate this unit by publish BPK regulation no. 1 Year 2011 and 2013.

BPK has more than 6000 employees who are placed in 33 provinces with 1000 audit reports published. BPK audit reports have high exposure to be challenged by public in terms of its credibility. For example, our audit opinion is one of key indicators of bureaucratic reforms. The target of government agencies in 2014 is having unqualified opinion of their financial reports. This pressure them and BPK to make reliable and trust audit opinion. Likewise, our audit reports are frequently cited as source of state finance responsibility when some national issues occur.

PART OF FRAUD CONTROL SYSTEM



BPK has adopted fraud control system (FCS). This covers all of controls to prevent, detect and investigate fraud as well as maintaining integrity. FCS has 10 elements, which are integrated anti-fraud policy, structure responsibility, fraud risk awareness, employee awareness, stakeholder awareness, fraud reporting system, whistleblower protection, investigation standard, external notification, and code of conduct and discipline. BPK has implemented this system by piloting

some units to participate before launching to the BPK wide. This system strengthens our strategies to make more holistic and gradual approach to dealing with ethics and integrity. One of elements, as mention above, is structure responsibility. This means that in order to strengthen integrity and anti-fraud policy, BPK has set some units to be responsible. These units are the honorary council and principal inspectorate.

Using the particular units to handle code of ethic enforcement has some advantages. Firstly, BPK is more accountable since BPK honorary council report to the Board and conduct its duty based on our law. Secondly, this unit is more independent since it comprises of external parties (academician and professional) and has due process that maintains its independency. The final advantage is clear process of misconduct handling. Related parties can rely on their expectation to the unit.

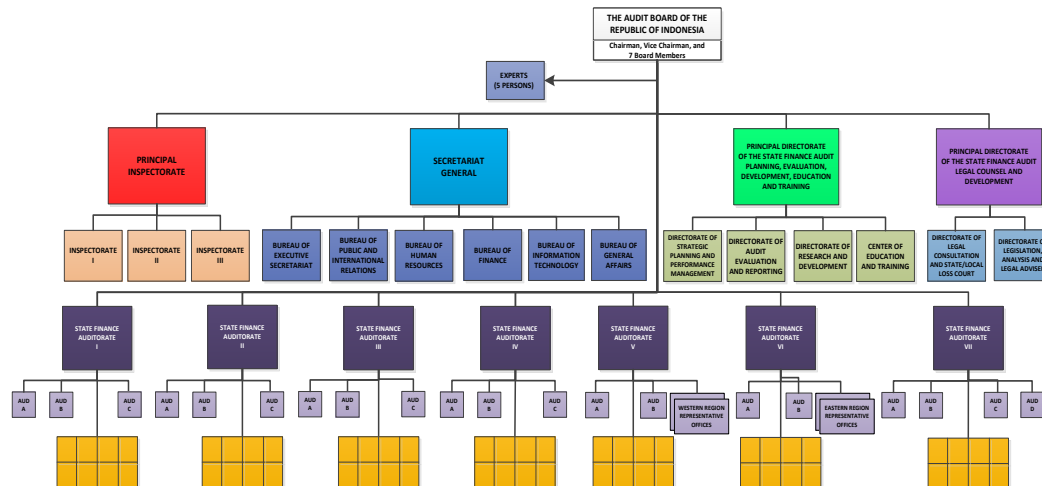
On the other hand, traditional organization structure cannot accommodate those advantages due to reactive approach, busy with audit workload and credibility concern. Traditionally, SAI only forms ad hoc team to handle misconduct when it happened. This approach is used when SAI think that they are already busy with the audit assignments. This has risk. This approach doesn't prevent unethical behavior that could happen within SAI and this will lead to inappropriate respond and breach of SAI's credibility.

“UNITS” INVOLVED IN CODE OF ETHICS

There are some “units” involve in dealing with code of ethics i.e. The Board, The Honorary Council, Secretariat General and Principal Inspectorate. The Board is chairman, vice chairman and board members who are selected by parliament to direct, govern and responsible for all of mandate given to them. The honorary council is formed by the Board to handle misconduct. Secretary General is the highest rank officer in BPK who administer BPK as directed by the Board. The last but not least, the Principal Inspectorate, which carry out internal audit, including investigate any misconduct.

The positions of them in terms of BPK organization structure as follows.

Enhancing Ethics within Supreme Audit Institutions



The units have different roles in terms of dealing with ethics and integrity. The Council has investigative role by providing tribunal. The Board has preventive and enforcement roles. The Board can direct and make regulations of code of ethics and its implementation. The Board has also final decision in giving sanction to persons who behave unethically based on the council recommendation. The Secretary General has the same roles of the Board, but mainly when employees are dealt with discipline. The Principal Inspectorate has vital roles since it has preventive, detective and investigative roles. The inspectorate conduct dissemination of code ethics, strengthen integrity pact, facilitate tolerable gratitude, train ethics, provide whistle blowing system and also investigate any suspected misconduct.

ROLES	THE COUNCIL	PRINCIPAL INSPECTORATE	SECRETARY GENERAL	THE BOARD
PREVENTIVE		V	V	V
DETECTIVE		V		
INVESTIGATIVE	V	V		
ENFORCEMENT			V	V

ETHICS AND *EMPLOYEE* DISCIPLINE

Since BPK's employees are also civil servant, they are also bounded by discipline regulations. Discipline involves any management activities to maintain employees' behavior in complying with civil service regulations. Therefore, discipline and ethics are interrelated. Ethics is more specific to audit related activities. Disciplines are related with audit and non-audit functions as government employees. If the violation is serious, it could be handled both in code of ethics and discipline. Therefore, in addition to their different roles in dealing with ethics and integrity, the units in BPK have also had certain area. The council and the Board mainly deal with code of ethics. Whilst Secretary General puts emphasis on employee discipline. Inspectorate, however, has been assigned with both areas: code of ethics and employee discipline.

AREA	THE COUNCIL	PRINCIPAL INSPECTORATE	SECRETARY GENERAL	BOARD
CODE OF ETHICS	V	V		V
DISCIPLINE		V	V	

THE HONORARY COUNCIL OF CODE OF ETHICS

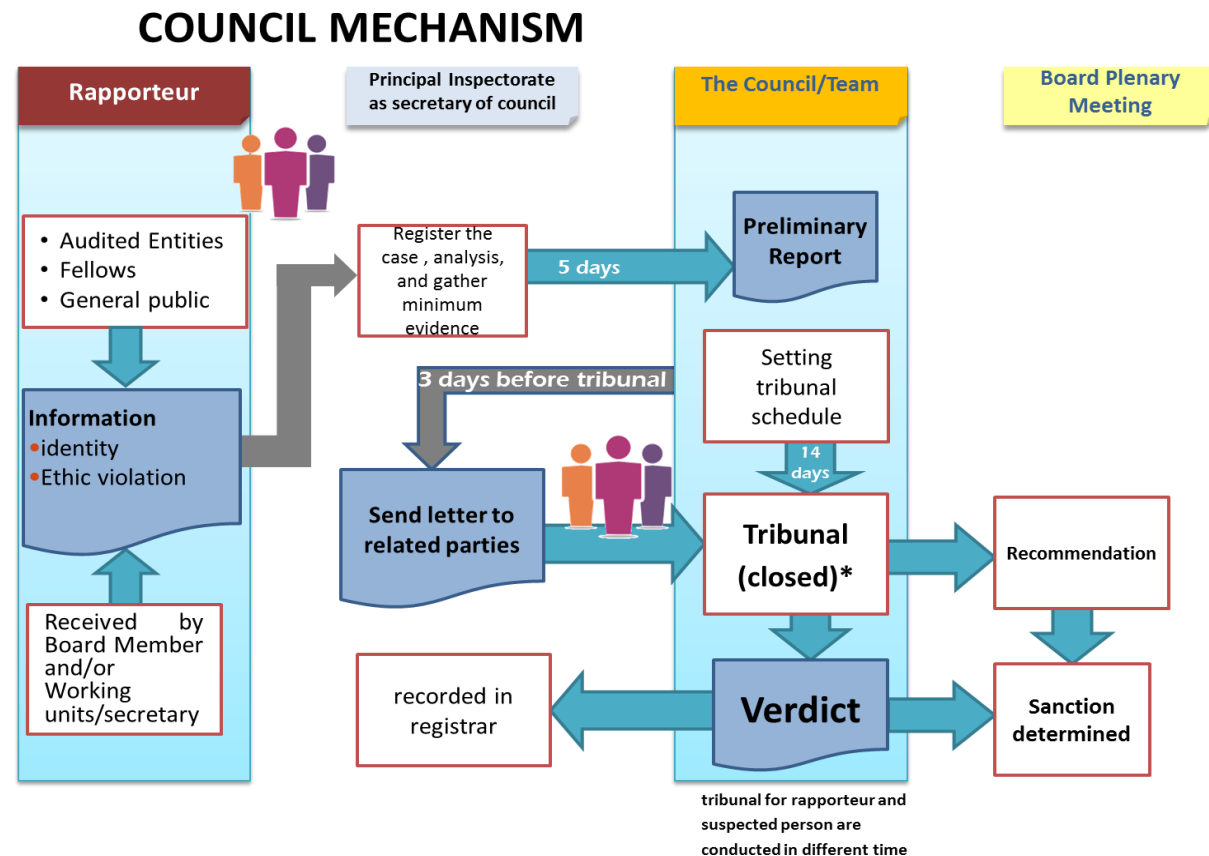
Now, we focus on the honorary council which responsible with code of ethics investigation in BPK. The council has some tasks. They are to conducts investigation for unethical behavior of Board members, Auditors, and Supporting staff and report to the board about the result of investigation. In doing so, the council is not allowed to disclose identity of case rapporteur and any information gathered. The council has authority to assign teams to gather evidences, summon related persons regarding ethic case (rapporteurs, witness, and reported persons) and make verdict/decisions

The council has 5 members, who are 2 from BPK and 3 from external parties (2 from academician and 1 from professional). One member is appointed as chairman, the others as members. They are appointed by the Board.

External member requirements as follows:

- Indonesia citizen
- Not member of political party
- Has good reputation and credibility
- Has integrity and independency
- Never have maximum 5-year sentence
- Has healthy condition
- No more 50 years old

They are selected by the Board. The candidate could be from the board itself and or principal inspectorate. The candidate should be acknowledged as integrity persons. Principal inspectorate as secretary of the council could ask universities or associations when recruiting external members.



THE PROCESS FOR HANDLING MISCONDUCT

As depicted above, the process for handling misconduct can be divided into a number of stages:

1. Receiving a report of suspected misconduct. It must contain identity and minimum information of suspected misconduct.
2. Initial consideration of the report to decide how best to handle the suspected misconduct. This is responsibility of principal inspectorate.
3. Commencing a misconduct action under the misconduct procedures and undertaking an investigation by principal inspectorate.
4. Conducting closed tribunal as a mean to match oral information and evidences among related persons.
5. Deciding whether the misconduct has occurred. The council based on evidences and code of ethics regulation to determine or not the misconduct has occurred.
6. Reporting to the Board.
7. Imposing the appropriate sanction where necessary by the Board.

It should be noted that the council can investigate by themselves or by a team depending the parties involved. The council will handle case when involved board member. If reported person is not board member, the condition as follows:

1. If s/he is senior or high middle position of auditor or echelon 2, 3 or 4, then team consists of a leader (member of council who is also board member) and three members who are professional and academician and two members from echelon 1 in BPK.
2. If s/he is junior or low middle position of auditor or non-echelon position, then team consists of a leader (member of council who is also board member) and three members who are professional and academician and two members from echelon 2 in BPK.

PERCEPTIONS AND LESSONS LEARNED

BPK has adopted Intosaint, an evaluation tool of integrity introduced by Nederland Court of Audit. Intosaint are conducted in 2010 and 2012 with participants from our central and representative offices including auditors and non-auditors. Intosaint report has consistently cited that our control

in integrity (as opposed of ethic violation) has been in “medium” level. It means that BPK has owned integrity control but need some improvements to be effective. One of the result is responsibility unit to dealing with ethic violation.

There are some difficulties concerning handling of misconduct:

1. The requirement of identity disclosure of rapporteurs could decrease the participation to report suspected misconduct.
2. Tribunal process can be prolonged due to availability of related persons and expenses burden by related parties.
3. Clearer misconduct handled by parties. There is a need to clarify which conduct are code of ethics and employee discipline.
4. Extent role of the council. The role of the council not only enforcement, but also disseminating and internalizing code of conduct and honorary council, conducting ethic-related training and becoming role model.
5. BPK should also provide alternatives for addressing conduct-related concerns. Once the decision has been made that it is not appropriate to handle the suspected misconduct through the council procedures, BPK can offer alternative options:
 - a. Deal with the conduct through BPK performance management system if appropriate, including specifying the standard of future conduct required
 - b. improve the employee’s awareness of required standards of conduct such as by access to training
 - c. close monitoring of, and advice/assistance on, future conduct
 - d. provide appropriate counselling
 - e. consider assigning new duties—however, care must be taken to ensure that this is not perceived as a *de facto* sanction imposed without a proper process
 - f. for conduct involving interpersonal issues, alternative dispute resolution approaches such as mediation or conciliation.

Regarding ISSAI 30

ISSAI 30 contains certain values to be uphold by auditors: integrity, independence, impartiality, objectivity, professional secrecy and competence. The need for particular units set up to cultivate these values could be considered. Based on our experiences, having the unit has some advantages. Therefore, ISSAI should introduce this respect by providing general provisions of institutional responsibility authority, and tasks of unit of code of ethics. This unit not only remedy the violation (enforcement), but also encourage prevention and detection of unethical behavior.

Conclusion

This paper try to convince that assigning particular units to handle code ethic implementation and violation is necessary and has some benefits including more accountable, clear process, increased credibility and public trust.

The nature of SAI and its environment are considerably factors to set up this kind of unit. For example in BPK case, we have more than one unit to handle ethics and integrity. This is a part of our strategy to be more accountable, on one hand, and to send signals to our members of organizations that we are serious when misconduct has occurred, on the other hand.

This paper also suggest some recommendations for improvement from changing identity requirement of reported persons to enhance the roles of the council.