

International  
Institute of  
Social Studies

*Erasmus*

**Technostructural Intervention of the Tax  
Ombudsman Unit in Indonesia  
A Study on Taxation Oversight Committee**

A Research Paper presented by:

***Agung Baskoro***  
(Indonesia)

in partial fulfilment of the requirements for obtaining the degree of  
MASTER OF ARTS IN DEVELOPMENT STUDIES

Major:

**Governance and Development Policy**  
(GDP)

Specialisation:

**Public Policy Management**

Members of the Examining Committee:

Dr Sunil Tankha  
Dr Sylvia I. Bergh

The Hague, The Netherlands  
December 2018

***Disclaimer:***

This document represents part of the author's study programme while at the Institute of Social Studies. The views stated therein are those of the author and not necessarily those of the Institute.

***Inquiries:***

**Postal address:**

Institute of Social Studies  
P.O. Box 29776  
2502 LT The Hague  
The Netherlands

**Location:**

Kortenaerkade 12  
2518 AX The Hague  
The Netherlands

Telephone: +31 70 426 0460

Fax: +31 70 426 0799

## Dedication Page

---

For Yulia,  
*aa* Rio, *teteh* Alia, and *adek* Aurora,  
thank you for having me.

---

## Acknowledgements

The first and foremost, I would like to offer immeasurable gratitude to the Almighty Allah, the Most Gracious and the Most Merciful for the countless blessings and rightful guidance without which I would not be able to finish this research.

The learning curve of this research process was a steep one, and I was able to reach the finish line thanks to my supervisor, Dr Sunil Tankha, who guided and supported me along the way. I also would like to thank my reader, Dr Sylvia I. Bergh, whose constructive comments and feedback, as well as the positive vibes, kept me focused on the tasks at hand.

Furthermore, I would like to acknowledge all sides that have made this study possible: Taxation Oversight Committee and the Secretariat, as the research loci, and all interviewees for the valuable insights. I also would like to thank the Financial Education Training Agency, Ministry of Finance, for the scholarship that allowed me to reach greater heights in my education. I hope the knowledge I gained would unlock my potential and allow me to contribute optimally for Indonesia.

I also would like to thank my support system in the Hague, the FETA 2 squad, for the help, support, and laugh, which has got me through not only the research process but also for my entire master life. Finally, to Bapak, Ibu, and all my families, thank you for your support.

# Contents

<i>List of Tables</i> .....	<i>vii</i>
<i>List of Figures</i> .....	<i>vii</i>
<i>List of Appendices</i> .....	<i>vii</i>
<i>Abstract</i> .....	<i>viii</i>
Chapter 1 Introduction.....	1
1.1. Research Background .....	1
1.2. Research Problem.....	2
1.3. Research Objectives .....	2
1.4. Research Questions.....	3
1.5. Risks and Ethics.....	3
1.6. Scope and Limitation of Research .....	4
1.7. The Organisation of the Research Paper .....	5
Chapter 2 Literature Review .....	6
2.1. New Public Management: Single Purpose Organization.....	6
2.2. Technostructure and Technostructural Intervention.....	7
2.3. Ombudsman.....	8
2.4. Tax Ombudsman.....	9
2.5. Analytical Framework.....	11
Chapter 3 Research Strategy and Methodology.....	13
4.1. Research Strategy.....	13
4.2. Research Methodology .....	13
4.2.1. Secondary Data Analysis.....	13
4.2.2. Semi-structured In-depth Interview.....	14
Chapter 4 Findings and Analysis.....	16
5.1. Independence .....	16
5.1.1. Structural Independence.....	16
5.1.2. Operational Independence.....	18
5.1.3. Analysis .....	23
5.2. Organisational and Institutional Capacities .....	24
5.2.1. Codes of Conduct and Standard Procedures .....	24
5.2.2. Intersection with Other Supervision Units.....	25
5.2.3. Authorities .....	26
5.2.4. Analysis .....	27
5.3. Resource Availability.....	29

5.3.1. Financial Resources .....	29
5.3.2. Human Resources.....	29
5.3.3. Analysis .....	31
5.4. Democratic Control .....	32
5.4.1. Legal Basis and Current State .....	32
5.4.2. Information on Recommendation .....	33
5.4.3. Information on Complaint Handling .....	34
5.4.4. Analysis .....	34
5.5. Interest Alignment.....	35
5.5.1. TOC's impact .....	35
5.5.2. Interest alignment.....	36
5.5.3. Analysis .....	37
Chapter 5 Conclusion and Recommendation .....	38
6.1. Conclusion.....	38
6.2. Recommendations.....	40
References .....	43

## List of Tables

Table 1 Secretariat of TOC’s Key Performance Indicators .....	2
Table 2 TOC Commissionaires Through the Years .....	17

## List of Figures

Figure 1 Mintzberg’s (1979) Five Organisation’s Basic Elements .....	7
Figure 2 Analytical Framework .....	12
Figure 3 TOC Recommendations Based on the Substance 2015-June 2018 .....	20
Figure 4 TOC Recommendation Implementation Rate .....	20
Figure 5 TOC Recommendation Based on Corresponding Units .....	21
Figure 6 TOC Recommendation Implementation Rate per Unit .....	21
Figure 7 TOC Recommendation Based on Type of Recommendation .....	36
Figure 8 Ministry of Finance’s Organizational Chart .....	46
Figure 9 Juxtaposition of Mintzberg’s Organization’s Element with Ministry of Finance Structure .....	47
Figure 10 TOC and Secretariat Organizational Chart .....	48

## List of Appendices

Appendix 1 Taxation Oversight Committee as Tax Ombudsman Unit .....	46
Appendix 2 List of Interviewees .....	50

## **Abstract**

Integrity, accountability, and fairness are crucial attributes for public service provision, especially for government agencies with strategic role of collecting tax revenue. To ensure those principles prevail, Indonesian Parliament and Government, represented by the Minister of Finance, agreed to establish Taxation Oversight Committee (TOC) as a check and balance unit similar to tax ombudsman to oversee Directorate General of Taxation (DGT) and Directorate General of Customs and Excise (DGCE), two units who carry the mandate. In addition to the ombudsman-ish tasks to prevent fraudulent behaviour and power abuse from DGT and DGCE officials, the Minister also demands TOC to produce technostructural interventions, i.e. conducting study and analysis to recommend ways to improve their performance.

However, since its formation in 2010, a comprehensive evaluation of TOC's impact on tax administration has yet to be seen. For that reason, this research aimed to qualitatively measure TOC's effectiveness in performing its tasks and functions, along with its determining factors. To achieve the objective, this study was conducted by two sequential qualitative research methods. The secondary data analysis was used to assess TOC's recommendation monitoring data from 2015 to June 2018, and it was followed by the in-depth semi-structured interviews that sought confirmation, explanation, and the reasoning behind the analysis result.

This research finds that the intervention provided by TOC has yet been influential and valued. The assessment indicates the pseudo-independence performed, inadequate organisational and institutional capacities, reduced budget, ineffective human resource management, and a policy that discourages democratic control contribute to TOC's ineffectual performance. However, the positive perception from the taxpayers and the liaison officers, and the initiative to align its interest with DGT's and DGCE's programs could be seen as encouraging attempts towards more effective interventions.

## **Relevance to Development Studies**

This research brings the context of a different or rather specialised type of ombudsman. Taxation Oversight Committee is appointed and operates under the Indonesia Ministry of Finance banner to oversee Directorate General of Taxation and Directorate General of Customs and Excise. In addition to its tax ombudsman function, it also serves the role of a technostructure, a part of the organisation that provide inputs to improve systems, procedures, policies, and performance. This study provides an alternative framework in evaluating the effectiveness of a specialised ombudsman such as Taxation Oversight Committee and introduces some challenges and underlying causes of existing issues of tax ombudsman. It suggests some solutions, which could be adopted to resolve similar problems of public sector oversight in comparable contexts.

## **Keywords**

technostructural intervention, tax ombudsman, taxation oversight committee, effectiveness evaluation, Indonesia



# Chapter 1

## Introduction

### 1.1. Research Background

Indonesia relies on taxes to keep its economy running. More than 80% of the state budget funded by various taxes. As the state's chief financial officer, The Minister of Finance delegates the tax collection to Directorate-General of Taxation (DGT) and Directorate-General of Customs and Excise (DGCE). The Minister's Expert Staff in Law Enforcement stated that "They have three impossible missions: to secure revenue, so the state programs run well; to keep improving tax services to achieve voluntary compliance from the taxpayers, and to boost domestic economy by implementing stimulating policies"<sup>1</sup>. Both offices have been supported by the enormous power to execute those missions (Article 36 General Taxation Regulation and Procedure Act 36 2007). Therefore, to keep them checked and balanced, the Parliament urged the Government to form a committee to ensure they uphold social justice and taxpayer's rights while performing their tasks<sup>2</sup>. This notion was ratified in Article 36 C General Taxation Regulation and Procedure Act 36 2007, which mandates the Minister of Finance to form Taxation Oversight Committee (TOC). The establishment of TOC was expected to manifest good governance practice in DGT and DGCE. It focuses on two out of five UNDP good governance principles (as cited by Graham et al. 2003), performance and fairness, by providing recommendations to improve their performance and promote fairer systems for the tax authorities and taxpayers alike.

In achieving its goals, TOC performs a tax ombudsman function to resolve complaints pursued by unsatisfied and aggravated taxpayers, who are desperate to have their rights upheld. Also, it produces recommendations to improve tax administration performance, which resembles the technostructure, one of the organisation's five elements introduced by Mintzberg (1979) that, similarly, provides interventions to improve organisational effectiveness through a transformation in the tasks, structures, technology, system, and goal achievement process. For these reasons, TOC can be considered as a tax ombudsman, indicated by resolving complaints, and a technostructure, which endeavours to enhance the system.

As a dual-purposed organisation, TOC would only be effective and have the desired impact if its recommendation is implemented. The literature demonstrates that certain attributes determine the effectiveness of a unit such as TOC: the degree of independence, organisational and institutional capacity, available resources, democratic control, and interest alignment. Hence, this research employs them to qualitatively assess TOC's effectiveness.

---

<sup>1</sup> Interview with Puspita Wulandari, Minister of Finance's Expert Staff of Tax Supervision on 24 July 2018.

<sup>2</sup> Interview with Prof. Gunadi, Taxation Oversight Committee Chairman on 26 July 2018.

## 1.2. Research Problem

The Parliament and the Government have recognised TOC's importance. However, after eight years, there has been yet any study assessing TOC's impacts on improving the tax administration system and advocating taxpayer's rights to create a fairer tax practice. The existing performance indicators only apply to the Secretariat and consist of self-determined output-focusing standards such as the total of recommendation issued, the maximum time to finish a recommendation, socialisation programs, and so forth, as presented in Table 1.

Table 1 Secretariat of TOC's Key Performance Indicators

No.	Strategic Goals	Target
	Key Performance Indicators (Weight)	
<b>Stakeholder Perspective (40%)</b>		
<b>I</b>	<b>Quality Recommendations to the Minister of Finance</b>	
1	Percentage of recommendations approved by TOC	93%
2	Percentage of study and recommendation draft submitted to TOC (relative to the planned studies)	100%
<b>Internal Process Perspective (30%)</b>		
<b>II</b>	<b>Effective Taxpayer's Complaint and Suggestion Handling</b>	
3	Percentage of taxpayer's complaint and suggestion handled within the <i>Service Level Agreement</i> (30 and 45 workdays)	100%
<b>III</b>	<b>Effective Prevention and Monitoring</b>	
4	Percentage of taxation news monitoring done	100%
<b>IV</b>	<b>Effective Taxation Study</b>	
5	Percentage of carried activities in taxation study's enrichment	100%
<b>Learning and Growth Perspective (30%)</b>		

Source: Secretariat of TOC Performance Report 2017

The table shows no indicator mentioning the outcome of the recommendations. Moreover, since TOC is a non-structural unit, it is exempted from the obligation to apply performance-measuring indicators. Consequently, there has been no objective tool to appraise its performance in developing better tax administration and preserving taxpayer's rights.

## 1.3. Research Objectives

The predicament above has shown that something is missing from an organisation as strategic and crucial as TOC. The information from recommendation monitoring system has not been used to evaluate TOC's effectiveness and its relevant factors. Therefore, this research seeks to qualitatively measure TOC's effectiveness in performing its tasks and functions. It uses some concepts and attributes explained in Chapter 2 as the framework to learn TOC's influence in

developing better tax administration which is fair and just, both to the tax authorities and the taxpayers.

## 1.4. Research Questions

This research utilises the concepts in the literature reviews to explain TOC's ability to be heard by its stakeholders. The review derives five essential aspects to determine TOC's effectiveness: independence, organisational and institutional capacity, and resources availability, democratic control, and interest alignment with the relevant actors.

Putting those concepts into the research, I posed the main research question:

**How effective is the Taxation Oversight Committee, as a techno-structure with ombudsman roles, in providing interventions that are influential and valued by Directorate General of Taxation and Directorate General of Customs and Excise?**

To answer it, I articulate the factors constructing the analytical framework into the following sub-questions:

1. What is the extent of TOC's independence and how does it affect its influence on tax authorities?
2. To what extent do the current organisational and institutional capacities allow TOC to produce quality recommendation?
3. What are the available financial and human resources and to what extent they support TOC's effectiveness?
4. What is the extent of TOC's public information transparency and to what extent it instigates democratic control?
5. How do DGT, DGCE, and the taxpayers perceive TOC's impact towards tax administration, and what is the extent of TOC's effort to secure their collaboration to improve its effectiveness?

## 1.5. Risks and Ethics

### Risks

One of the risks in this research was the unwillingness or unavailability of the interviewees. I mitigated this risk by establishing contacts long before so that they could fit the meetings into their schedules. Even so, this issue persisted with the DGCE liaison officer. To solve it, I contacted the previous liaison officer as an alternative. This move turned out well since he had been the liaison officer for three years and was more than willing to participate.

The second risk was the normative answers which, from my experience, was likely to be given by government officials. To my surprise, however, only a few of them acted that way, and the rest of them had no trouble confiding their thoughts about the actual condition.

The final risk was my bias as a Secretariat staff. I went into this research with an initial thought that TOC could and should have done better, which might lead me to overlook its achievements. To mitigate this risk, I applied the

four-step method from O’Leary (2014:53). Firstly, I recognised my subjectivity. As a part of the system, I felt some improvements were needed. Therefore, I positioned myself on a critical standpoint. Secondly, I appreciated positive responses and regarded them as enrichment to this research; I realised that there are different angles to see each issue. Therefore, the third step, I suspended my judgements until I arrive at a conclusion. Finally, I incorporated each diverging view into the findings and analysis so that this research would be more vibrant and comprehensive.

### **Ethics and Challenges**

At the beginning of each interview, I introduced myself as a student researcher, rather than as an employee of the Secretariat so that the interviewees would feel more relaxed and open. Furthermore, I guaranteed their confidentiality should they choose to be anonymous, even though in the process, none of them felt the need to conceal their identities. Additionally, I informed them that, in addition to the note-taking, I would also record our conversation, which was greeted by their approval.

During the interview, one of the challenges was the interviewees’ higher position within the Ministry of Finance structure. I had to take the most modest approach and choose my words carefully to get the information. The second challenge was some of them tended to beat around the bush while answering the questions. At times, I had to reaffirm their statement to ensure that I got the correct messages.

## **1.6. Scope and Limitation of Research**

This research encompasses the professional relationship between TOC, the Minister, DGT, and DGCE regarding TOC’s interventions. It also discusses the taxpayers’ view of how effectual TOC is for them. Within TOC, the focus was on the Commissionaires and three technical divisions producing the recommendations, their degree of independence in doing it, their organisational and institutional capacity, and their available resources.

Moreover, this research focused on DGT’s and DGCE’s liaison officers TOC and sought their views about TOC’s recommendations. Additionally, the tax consultant association represented the taxpayer’s view, both on TOC’s role in improving tax administration and its performance in handling complaints. Finally, the Minister’s Expert Staffs provided insights into how TOC has been in fulfilling its duties to the Minister.

However, because there are 110 recommendations issued from 2015 to June 2018, I did not investigate the substance of the individual letter. Moreover, the researched period is restricted to how long the TOC monitoring record goes back. Therefore, although this research can be used as a reflection on how TOC has been performing, it might not represent the situation and condition before the monitoring record begun.

## **1.7. The Organisation of the Research Paper**

This research paper contains five chapters. The first chapter introduces the topic along with its background and discusses the knowledge gap, which then followed by the statement of research questions and objectives. It ends with the organisation of the paper to provide a clear structure for the readers.

The second chapter explains the literature review on NPM's single purpose organisation, technostructure, ombudsman, and tax ombudsman, which together, constructed the analytical framework. Chapter Three describes the research strategy and methodology of this study.

The last two chapters are the core of this research. Chapter Four attempts to answer the research question and sub-questions by presenting the findings and the analysis. Chapter Five concludes this study and provides some viable recommendations.

## Chapter 2

### Literature Review

This chapter discusses the theories as for the basis of this research. It starts with the *single-purpose organisation* of New Public Management to explicate the specialisation within the Ministry of Finance, which happened to TOC, DGT, and DGCE. It continues with Mintzberg's *technostructure*, which represents TOC's organisational role in the policy arena. The following subsections talk about the *ombudsman*, and its specialised version: *tax ombudsman*. They add some factors that determine this specific kind of public sector organisation's effectiveness, which then be used as the analytical framework of this research.

#### 2.1. New Public Management: Single Purpose Organization

The New Public Management (NPM) has inspired the bureaucracy reform of the Ministry of Finance. It was instigated by the World Bank and IMF as part of an agreement to bail Indonesia out of financial crisis in 1997 to overhaul the "reportedly ineffective public service" (Wihantoro et al. 2015:44). Introduced in the late 1980s, NPM is arguably the most prevalent public-sector reform in the world. It proposes increasing specialisation to improve government performance, which suggests single-purpose organisations, heavy distinctions, and separation of "government's roles and functions as owner, administrator, regulator, purchaser, and provider" (Roness 2017).

The single-purpose organisation applied in the Ministry of Finance prevents overlaps between operating units. This concept emphasises specialisation of government's functions by separating integrated organisation and establishing various offices, where each has a specific and nonoverlapping purpose (Roness 2017). This system encourages agencies to focus on the tasks at hand, so they would be able to improve their performance because there are "clear boundaries, precise goals, and results that may be clearly read and understood" (Christensen and Læg Reid 2006). However, this specialisation poses a challenge for coordination (Christensen and Læg Reid 2006); it may have caused "too much fragmentation, self-centred authorities, and a lack of cooperation and coordination, hence hampering effectiveness and efficiency" (Boston and Eichbaum, as cited in Christensen and Læg Reid 2007)

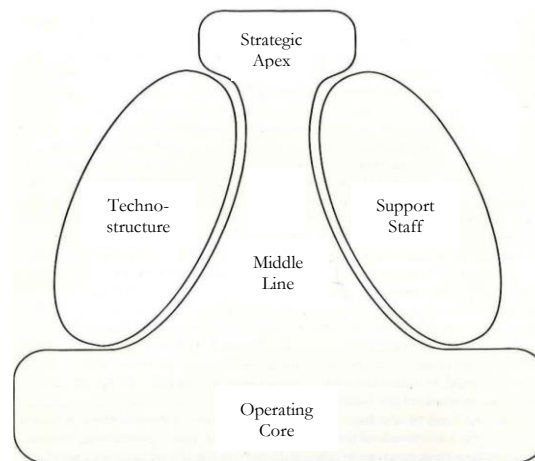
The disadvantages of single-purpose organisations are also felt in the tax ombudsman's relationship with tax administrations. Typically, a tax authority's goal is to generate as much revenue as possible. Conversely, tax ombudsman performs a controlling function to ensure that in collecting taxes, the tax offices uphold the value of justice and fairness and do not deprive the taxpayers of their rights. The different purposes or interests between these two may take tolls on their work rapport. Without effective coordination between them, tension might rise, and they might undermine each other's roles. For example, if the tax ombudsman insists tax authorities to apply a tariff reduction without the latter's consideration and coordination, the national revenue will suffer immediately. On

the other hand, if tax authorities keep doing their business as usual without adhering to tax ombudsman, the values of a tax ombudsman would diminish. The public might feel that it is ineffective and only wasting public resources. Therefore, the issue of coordination and interest alignment between tax ombudsman and tax authorities is crucial for their co-existence.

## 2.2. Technostructure and Technostructural Intervention

According to Mintzberg (1979), five components form an organisation: operating core, strategic apex, middle management, technostructure, and support unit (see Figure 1). The operating core performs the work directly related to the main business of the organisation. The strategic apex is the people in charge of overall responsibility for the organisation. Middle management connects them by conveying orders from the apex to be executed by subordinates and information from the bottom to advise the top managers. The last two, technostructure and support unit, contribute in more indirect ways. The supporting unit provides services need to keep the organisation running.

Figure 1 Mintzberg's (1979) Five Organisation's Basic Elements



The last component, technostructure, offers interventions to improve the organisation through transformations in the tasks, structures, technology, system, and goals. The technostructure provides interventions that serve as the guidelines of transformation, which may take form as structural, systemic, cultural, and behavioural changes (Golembiewski 1980). The technostructure analysts may have further insights and more critical views on the business and recommend more strategic advice. This advice is not only be designated for middle-management improvement but also on how to improve the whole affairs. Therefore, technostructure is only effective if its intervention could improve the business process (Mintzberg 1979:30).

The absence of technostructure would lead an organisation to a saturated point since no one reviews, evaluates, assesses, and advises the required improvements and thus, renders them obsolete. Consequently, the outdated methods might create openings for the internal actors to take personal gains. In influential public-sector organisations such as tax authorities, technostructure's

absence means no unit checks and challenges them if they abuse their power or miscarried their tasks.

In practice, the relationship between technostructure and other elements in the organisation, especially the middle line, does not always run smoothly. They engage in endless discords with one another because technostructure, with its various kinds of interventions, deprives the middle line from some of its authority (Nystrom 1986:813). Furthermore, Browne and Golembiewski (1974) confirmed that the tension also arises because the operating lines perceive themselves as important and powerful, and, conversely, the technostructure staff is deemed as inferior. Therefore, their recommendations might be seen as negligible.

The explanation above indicates that a relationship between technostructure and other elements, especially, but not exclusively, in the public sector, is political. Their interactions are not only set by formal rules but also informal ones (Polski and Ostrom 1999). Therefore, on some occasions, the outcomes of the action arena might be unexpected; the actors' diverse roles, positions, authorities, interests, and access to information are more influential than the formal rules.

From the description above, it can be inferred that technostructure fit with TOC's roles within the Ministry of Finance. Moreover, in doing its job, TOC might also have to face some extent of tacit reluctance from other actors in the policy arena. Therefore, seeing these similarities, TOC's effectiveness can also be defined as its aptitude to influence and improve the tax administration system.

### **2.3. Ombudsman**

In the early 1800s, the Swedish Parliament devised an office called 'Justitieombudsmannen' to oversee public officials and ensure they function within the laws and regulations (UN 2004). Asian Development Bank (2011) articulated ombudsman roles to promote good governance, enhance the public sector's accountability, and improve public administration via complaint handling, public information services, and policy recommendation. The complaint handling role is aimed to "protect the citizens against violation of rights, abuse of powers, error, negligence, delays, unfair decisions and maladministration" (Serrano 2007:331). Fowlie (2008) added that ombudsmen work within the values of independence, impartiality, and neutral advocacy without any tendency to range themselves with the agency or the complainant, but rather with fair administration principles. Gadlin (2000) mentioned ombudsman as an alternative dispute resolution since most of the cases examined could have been brought into the administrative court.

However, ombudsman typically wields no power to bind the administration to comply. In many countries, it has been critiqued as powerless and ineffectual as it cannot enforce the implementation of its recommendation. Nonetheless, several ombudsmen in various countries have experienced otherwise (Serrano 2007). In the USA, the National Taxpayer's Advocate (NTA) assists taxpayers to resolve disputes with the Internal Revenue Service and recommends adjustments that will prevent similar problems from recurring. In Taiwan, the Control Yuan can prosecute violating officials to protect citizens' rights and interests, uphold social justice, and promote a credible and capable government. In New



Zealand, the Ombudsman is authorised to inform on irrational, unfair, based on error, or merely wrong administrative decisions. In Pakistan, the law states that it is mandatory for the Revenue Division to execute the Federal Tax Ombudsman's recommendations.

The distinctive qualities of the ombudsman office are its independence, quick-response, and adaptable control body. To ensure that its investigations and recommendations are trustworthy to both public and government, the ombudsman should uphold its impartiality and integrity (Serrano 2007:332). Therefore, to perform an optimal complaint-handling function, independence is crucial. Without independence, the ombudsman would not be able to perform impartially. In his research, Waseem (2011) advanced that ombudsman independence could be comprehended in two types. First, structural independence, which is defined by the method of selection, appointment, and legal provisions. Second, operational independence, which relates to power and the capacity to investigate complaints, prompt necessary responses from public departments and agencies, and demand compliance with its decisions. For those reasons, ombudsman must not be structurally below the agencies that it supposes to oversee, and the appointment of the ombudsman shoulders a strategic significance.

There are various ways and requirements to select and appoint ombudsmen; they depend on contextual necessities. For example, in some countries, the candidates must have an adequate background in specific fields such as law, economy, and national security, while the others focus on human rights and social justice. However, there is a universal perspective that ombudsman appointed by the government might have less independence and thus, lower credibility than the ones selected by the parliament. Nevertheless, having the parliament to select and appoint ombudsmen is also a double-edged sword since they might be exposed to day-to-day politics and patronage. Moreover, ombudsman membership must also consider representativeness. It should not only be occupied by some experts, but also by civic society delegations to convey people's voice upon the decision-making process.

Operational independence is also the key to analyse ombudsman's effectiveness. An ombudsman with adequate capacity, credible background, and is elected democratically may be more independent. However, if he or she could not secure compliance from the government agencies, the institution becomes ineffective.

Furthermore, to perform optimally, ombudsman, like any other organisation, requires accommodating resources. Waseem (2011:73) advances multiple examples in various contexts where insufficient resources, both in the human and financial capital, restrict ombudsman performance. Sufficient resources enable ombudsman to perform with more independence and integrity and reduces the probability of rent seeking.

## **2.4. Tax Ombudsman**

The development of public administration demands specialisation in all aspects, including ombudsman. Therefore, the presence of an ombudsman focusing specifically on the tax administration has been imminent, considering the growing importance of tax revenues as the primary source of the government's

income. Moreover, it brings required expertise to cope with the intricacies inherent in taxation cases, which absent in the general ombudsman (Serrano 2007:332). This specialisation also transpired in Indonesia, with the establishment of TOC. The contributions in improving tax administration range from resolving taxpayers' complaints to providing advice and recommendations to develop better systems, procedures, regulations, and policies.

The existence of a tax ombudsman unit has brought two significant outcomes. From the taxpayers' perspective, it complements the administration mechanism for dialogue and defence. From the tax administration point of view, it encourages improvement of administrative processes and service delivery (Serrano 2007:340). Serrano (2007:338) continues that there are at least five functions that are ideally performed by a tax ombudsman, "revocation of tax acts; informative action; democratic control; alternative dispute resolution method; and, improving the legal system".

The revocation of tax acts articulates tax ombudsman's influence over the tax authorities. This function depends on the institutions in effect. In general, the authority to revoke or amend decisions lies in the organisations that make them. Then, the conundrum would be about what a tax ombudsman could do if tax authorities refuse the recommendations when they are not even obliged to explain their reasons to do so (Serrano 2007:338). The effective example of this function is NTA, which has the authority to command appropriate procedural and administrative adjustment if they are considered unproductive for the taxpayers. Moreover, NTA has been granted the power to issue Taxpayers Assistant Orders "in order to stop, delay, or suspend IRS actions" (Conoboy 1999:1408). On the other hand, Spain's Council for the Defense of Taxpayers' Right and Guarantees have been deemed ineffective since it is incapable of responding to any form of noncompliance from the tax authority.

Secondly, tax ombudsman devises strategic research, including collecting data and information along with its analysis to perform an informative action that will suggest various recommendations. This function is crucial to improving the tax system and promotes citizens' participatory action (Serrano 2007:338). It is also similar with technostructural intervention discussed in the previous subsection, and tax ombudsman in Spain, Australia, and South Africa is performing this function (Serrano 2007; Inspector-General of Taxation n.d. a; The Office of Tax Ombud n.d.). It complements the complaint handling function to provide comprehensive intervention.

Tax ombudsman also develops some community control over tax authorities. By making its recommendations public, it allows the public to access the proposals issued and put additional pressure for the administration to implement them, or at least to provide an explanation if they choose not to. Moreover, typically, both tax ombudsman and tax authorities are subject to freedom of information act in their respective countries. For instances are Inspector-General of Taxation (IGT) in Australia (Inspector-General of Taxation n.d. b) and the Office of Tax Ombud in South Africa (The Office of Tax Ombud n.d. b), who have developed public information scheme and publish their work to provoke public participation.

The tax ombudsman also adopts and adapts the general ombudsman's alternative dispute resolution function. Like the general ombudsman, most of the

cases handled could have been brought to the court. Conoboy (1999:1403) argues that if the disputes are procedural, “courts are not the proper place to work out the details”, hence the tax ombudsman, who provides quick response and flexibility to resolve the issues informally (Serrano 2007). The emphasis on the procedural issue is further highlighted in Australia, where IGT does not have the authority to handle complaints about the obligation to pay taxes nor the amount of those taxes (Inspector-General of Taxation n.d. c).

The final purpose of tax ombudsman is to check and balance tax authorities. It reviews systems, procedures, regulations, and policies to improve administration and reduce possibilities of misconduct ranging from rude officials to erroneous assessment (Conoboy 1999).

Serrano (2007:340) further argues that four preconditions enable tax ombudsman to perform satisfactorily. First, it needs to have a reliable persuasive ability. This aptitude is not related to legal enforcement, but more to the moral aspect to influence both taxpayers and tax authorities. Therefore, it needs adequate communication and negotiation capacity to be performed effectively.

The second enabling condition is that it must wield an adequate level of independence from the authorities it has to oversee. This attribute is crucial to prevent over-influence by the tax administration that renders tax ombudsman neglecting its objective: a balance between the state’s interests to generate optimal revenue and citizens’ rights to just and fair treatment.

The next necessity is that the subjects of the supervision must accept recommendations provided because of moral perspective, if not by legal obligation. Consequently, if they opt to do otherwise, tax authorities must provide rational reasoning to explain its decision of not implementing these suggestions and recommendations.

The final precondition is tax ombudsman should not be seen as a competitor to existing courts. Its presence should be perceived as alternative dispute resolution, and citizens can choose to settle their problem to either one of this office according to their specific situation. Taxpayers who need a more formally binding decision have the rights to go to the court, while the ones that require less costly and faster results could opt tax ombudsman.

## **2.5. Analytical Framework**

The literature indicates five factors affect a tax ombudsman’s effectiveness, i.e., is its aptitude to influence and be heard by tax authorities to improve the tax administration system. These elements, independence, organisational and institutional capacities, resources availability, democratic control, and interest alignment with its counterparts, determine a tax ombudsman’s ability to influence the units they are supposed to oversee so its intervention could benefit the system. Therefore, these five aspects construct the analytical framework to measure TOC’s effectiveness qualitatively.

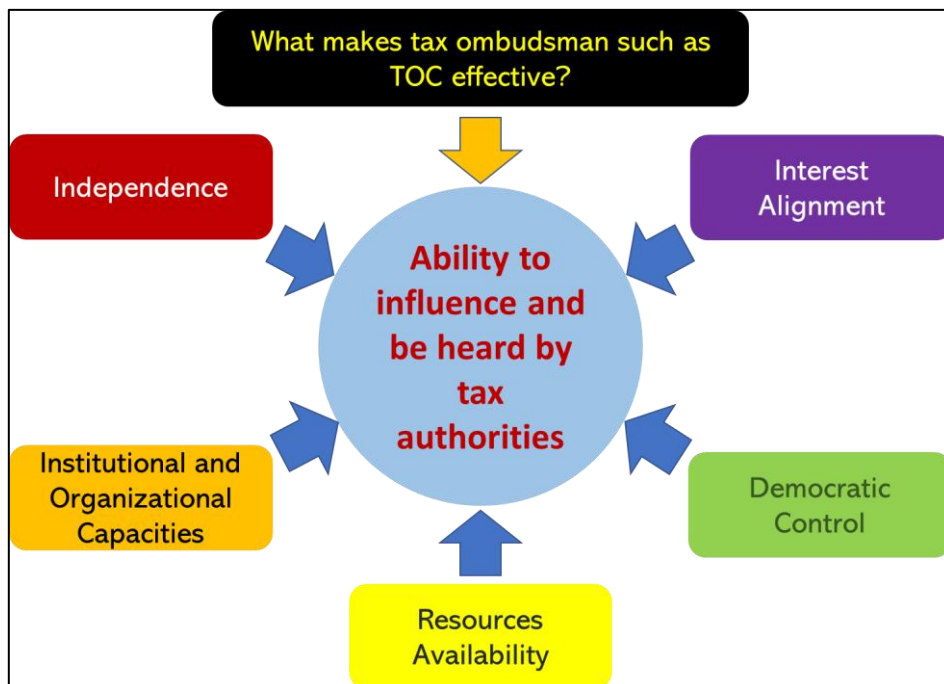
The independence is derived from ombudsman literature that expresses it as a crucial attribute. It consists of two parts, the structural and operational. It covers the recruitment, representativeness, compliance safeguard, and intervention from other parties. Moreover, this subsection also contributes resources availability as one of the assessment criteria of how effective TOC is.

The organisational and institutional capacities come from the tax ombudsman review. Organisational capacity comprises TOC's innate mechanism to perform optimally and its ability to manage friction with external units, while institutional capacity refers to the extent of the rules in enabling effective performance from TOC. This literature also introduces democratic control, which means the extent TOC in 'utilising' the public to participate by publishing its recommendations. It also serves to gain public trust and strengthen its position in the policy arena.

The final category used as the framework is TOC's interest alignment with relevant actors, which is originated from the subsection on NPM and technostructure. The literature indicates that there might be tension between TOC, as technostructure and tax ombudsman, and DGT-DGCE, as the line organisation and tax authorities. The interest alignment might alleviate the tension and serve as the 'plus sign' that initiates better coordination and cooperation between them.

Figure 2 gives a visualisation of those concepts forming the analytical framework.

Figure 2 Analytical Framework



Sources: *Self-construct*

## Chapter 3

# Research Strategy and Methodology

### 3.1. Research Strategy

This research seeks to qualitatively ‘measure’ how effective TOC is by applying the analytical framework from Chapter 2. Forst of all, I first established contact with the primary research loci, which were the TOC and the Secretariat of TOC, to get their approval. Afterwards, I split the data collection process into two parts. The first one was to analyse the TOC’s recommendation monitoring report. This report was crucial to analyse how the recommendations were doing, whether they were accepted and implemented and thus had a strong impact or ignored and had little influence. The result from the first part’s analysis is used as the basis for the interviews, where the various sources, both internal and external, gave broad perspectives about TOC’s effectiveness and explained the meaning behind the recommendation statistics.

### 3.2. Research Methodology

This research combines two qualitative research methods: secondary data analysis and semi-structured in-depth interview. The secondary data analysis is used to analyse TOC’s recommendation monitoring report, who made it, how it was made, and how accurate and reliable it was in capturing the progress. The data provided sufficient information that served as the ground for the second method.

The second method is the semi-structured in-depth interview with various actors who have been in intensive contacts with TOC. This method looked to confirm and explain the statistical analysis result. With different perspective provided, I expected the interviews to produce rich and comprehensive input. The processes of these two methods are discussed in further details in the next subsections.

#### *3.2.1. Secondary Data Analysis*

To try answering the research question, I needed the recommendation monitoring report to determine how many recommendations were already implemented, what was the core issue of the implemented ones and whatnot, which unit has better response, and other information that would be helpful in this research. Therefore, I applied this method before I conduct in-depth interviews with the sources.

The first thing I did was establishing contact with officers in the relevant division in the Secretariat of TOC and requested to access recommendation monitoring report. I started analysing the data by classifying them into two sets. The first set was the data from 2011 to 2014 when there was a confusion on which division should do the monitoring: should each core division monitor

their output individually or should it be done integrally. Because of the commotion, the data from this period was fragmented and unreliable. The second set, from 2015 to June 2018, was more comprehensive since the task has been mandated to a specific division: Taxpayer's Complaint Verification and Handling Facilitation Division. Considering the availability and the reliability, I decided to use the second data set and therefore limited my research for the respective period (2015 – June 2018).

To analyse the data, I created a database and added the required categories to analyse them. The first category was the source of the recommendation, which was useful to distinguish which of them came from taxpayer's complaints and which are from TOC's initiative. The second category was the status of the recommendation, which I codified into five groups: resolved, being resolved (on progress), have yet to be responded, rejected, and the ones with no information. With this classification, I performed the required cross-tabulation to analyse the data and learned how many recommendations fell to each group, and their origins. I also discover which unit, between DGT and DGCE, responded better to TOC's recommendation. The result of this analysis served as the launch-pad for the next method.

### ***3.2.2. Semi-structured In-depth Interview***

The second method was semi-structured in-depth interviews. The interview is "a method of data collection that involves researchers seeking open-ended answers related to a number of questions, topic areas, or themes" (O'Leary 2014:217). Since TOC stands in a complex policy arena within the Ministry of Finance, this method afforded different perspectives from various actors to comprehensively perceive its effectiveness. Moreover, I expected the interviews to provide explanations, reasonings, and meanings behind the statistics from the monitoring report analysis, which I might not be able to acquire otherwise.

Therefore, after concluding the monitoring report analysis, I formulated my questions in accordance with the research sub-questions. After each interview, I fine-tuned the questions to be more suitable. On the final stage, each theme had four to ten questions, with 36 total questions, which I also adjusted based on their respective positions to be more effective responses.

Initially, I selected ten sources to be interviewed: four TOC Commissioners, the Secretary, three Heads of the Core Division in the Secretariat, and DGT and DGCE liaison officers. At the outset, I believed that they would adequately represent various perspectives I sought. However, some Secretariat officials advised three other persons that might enrich my research: two Minister of Finance's Expert Staff of Taxation Supervision, to represent Minister's view, and the Chairman of the Indonesian Public Tax Consultant Association, to provide taxpayer's perspective. After consideration, I decided to approach them and reduced the sources from TOC Commissioners.

As a staff in the Secretariat of TOC, approaching most of the sources was not an issue. The challenges came when I was approaching DGT and DGCE liaison officers. As a unit, DGT applies tedious procedures to approve any research related to its tasks and function; I only heard about my application after two weeks and was finally able to interview the Head of Sub Directorate of Internal Investigation, a direct subordinate of the liaison officer, two months later.

On the DGCE side, I failed to secure an interview with the current officer because his schedule was tight. Therefore, I switched to the previous officer, who was more than willing to participate. The details about interviewees are presented in Appendix 2.

I did all the interviews one-by-one because I needed my sources to confide their thoughts comfortably, which might not happen in a group interview. Moreover, even though most of the interviews were done in their offices, I adopted the informal approach and semi-structured measure, applying O’Leary’s argument (2014:218) that the more-relaxed set up allowed the researcher to earn interviewees’ trust and render them to be more open, and the semi-structured probing let the conversation to be more fluid. I also took the liberty to chase exciting topics that were not in my question list to get the deeper nuance of the issues. These strategies worked since I managed to obtain rich data and even a critical standing from the officials, which seldom happens. After the interviews, I summarised the result by coding the questions and answers by their themes, which assisted me to identify concurring and conflicting answers in addressing the research primary and sub-questions.

## Chapter 4

### Findings and Analysis

This chapter sequentially presents the findings and analysis in accordance with the research sub-questions. The independence of TOC comes as the first finding and is followed by the organisational and institutional capacities, with resource availability is staged as the third part. The chapter continues with democratic control and finishes with TOC's interest alignment with DGT and DGCE.

#### 4.1. Independence

In the Article 1 Minister of Finance Regulation 54/PMK.09/2008 and 63/PMK.09/2016 about Taxation Oversight Committee, it is stated that "Taxation Oversight Committee is a non-structural committee with the task of assisting Minister of Finance and is independent in supervising tax authorities". Aside from this article, no other rule regulates TOC's independence. However, how independent is TOC?

In this research, independence is split into structural and operational independence. The structural independence encompasses recruitment and representativeness, while operational independence covers how TOC faces intervention from other parties and secures compliance from DGT and DGCE.

##### 4.1.1. Structural Independence

###### Recruitment process

Initially, TOC consisted of five members with a preset slot for an *ex-officio* member, the Inspector-General, and they could only be appointed for a single period. TOC's legal basis, the Regulation 54/PMK.09/2008 about Taxation Oversight Committee, which was rectified by Regulation 63/PMK.09/2016, does not set the selection procedures. As a result, each of the three periods saw altering recruitment processes.

In the first regime, 2010-2013, the recruitment was done through open bidding. Experts and practitioners applied and went through the multi-tiered tests. The recruitment resulted in two candidates: one was a former official in DGT, and the other was a well-known tax consultant. At that time, one of the terms and conditions was should they be selected, the candidates must relinquish any job or position that might potentially bias their standpoint. Accordingly, the tax consultant decided to pull out. To fill the slots, the Minister appointed three persons directly: a former Director-General of Customs and Excise, and two academics from the University of Indonesia.

In the second period (2013-2016), the Minister sent invitations to various capable figures to join the selection. This time, no precondition forbade them to retain their job or position outside TOC. It resulted in three former high-ranked officials in DGT and DGCE and an expert in commercial law. This period also saw amendments on Reg 54/PMK.09/2008. One of them was to add two members, with one of them is the Secretary-General as another *ex-officio* member.



Therefore, since the third period, TOC would have seven commissioners (Reg 63/PMK.09/2016). Another addition was to allow the commissioners to be reselected for another period.

The latest period (2016-2019) had the most straightforward process. The Minister reappointed the chairman and vice chairman and selected the rest of the team without a selection process. The line-up consists of four former DGT and DGCE officials, one academic in economics, and two ex-officio members. An internal source expressed his thoughts about this change.

“I do not know why. Maybe the Minister sees this (directly appointing commissioners) as the most efficient way.” (Interview No. 7)

This response seems to suggest that it is normal for the Minister to simplify the recruitment to be more efficient. However, another informant in the Secretariat voiced concern about this.

“I certainly feel that this direct appointment somehow influences TOC’s course of actions. It costs us the grit and tenacity required to perform all-out supervision.” (Interview No. 3)

### Representativeness

To oversee and supervise the tax administration competently, TOC requires personnel of high calibre. Assessing the TOC members below, it is inferable that the Commissioners have been knowledgeable and highly experienced. Moreover, their influential former positions should command a great deal of respect from DGT and DGCE.

Table 2 TOC Commissioners Through the Years

No	2010-2013	2013-2016	2016-2019
1.	Anwar Suprijadi <i>Ex-Director-General of DGCE (Chairman)</i>	D. M. Nazier <i>Ex-Director of DGCE (Chairman)</i>	D. M. Nazier <i>(resigned from TOC in January 2018)</i>
2.	A. A. Ritonga <i>Ex-Director of DGT (Vice Chairman)</i>	Gunadi <i>Ex-Director of DGT (Vice Chairman)</i>	Gunadi <i>(promoted to be Chairman position in January 2018)</i>
3.	Siddharta Utama <i>Academic in Economics</i>	Kamil Sjoeb <i>Ex-Secretary of DGCE</i>	Djoko Wiyono <i>Ex-Director of DGCE</i>
4.	H. Juwana <i>Academic in International Law</i>	A. M. Tri Anggraeni <i>Commercial Law Practitioners</i>	S. P. Tambunan <i>Ex-Director of DGT</i>
5.	Inspector-General of the Ministry of Finance	Inspector-General of the Ministry of Finance	R. Mahi <i>Academic in Economics</i>
6.	-	-	Secretary-General of the Ministry of Finance
7.	-	-	Inspector-General of the Ministry of Finance

Source: Secretariat of TOC Performance Report 2017

Nevertheless, one of TOC’s functions is to promote fair tax administration by protecting the taxpayer’s rights. Therefore, the formation has risen a question: why is there no taxpayer’s representative? Two sources confirmed this issue.

“We need taxpayer's representatives. Moreover, the dismal contribution from *ex-officio* members makes me wonder whether we need two of them instead of one, like previous arrangement (before 2016).” (Interview No. 6)

“So far there is no taxpayer's representative in TOC even though one of its function is to promote fairness for taxpayers. Is it not ironic?” (Interview No. 3)

On the contrary, the Chairman argued:

“I realised that not having taxpayer’s representative is a downside. However, we make this up by holding public communication events to capture taxpayer’s aspiration.” (Interview No. 7)

From the information, internal sources concurred that TOC needs to bring the taxpayer’s perspective on the table so that they can perform a more inclusive job. Interestingly, one of the liaison officers expressed the opposite:

“TOC should utilise its public communication. There is no need for a taxpayer’s representative.” (Interview No. 11)

Another source argued with a more specific idea.

“The composition is almost perfect with former high-ranked officials from DGT and DGCE, an economist, and Ministry of Finance's representatives. However, it would be great if two tax consultants could become members to represent the taxpayers.” (Interview No. 8)

#### ***4.1.2. Operational Independence***

##### **Intervention from other parties**

With its strategic position, TOC is prone to interference from interested parties varied from taxpayers, business association, tax consultants to public agencies such as DGT, DGCE, the Parliament, and even the Minister herself. In 2011, TOC confiscated several containers of illegally imported smartphones. After the investigation, it was known that the culprit was an influential man. Shortly, the parliament called TOC and questioned the confiscation. They argued that since TOC was ratified in Taxation Law, it should not interfere with customs and excise affair, even though Reg 54/PMK.09/2008 states that TOC’s scope of supervision includes customs and excise as well. The Parliament insisted with this technicality, and therefore, the Minister yielded and instructed TOC to focus solely on DGT for the next year.

Another example was when the Minister, DGT, and DGCE were under pressure to collect revenues. The Minister found TOC’s intervention somewhat harmful for the tax collection. As a result, the Minister asked TOC to focus on recommendations to increase tax revenue, not the opposite.

“In 2015, the previous Minister unequivocally told TOC not to hinder the revenue collection process. He expected TOC to focus on recommending ways to improve tax revenue instead.” (Interview No. 2)

Similarly, the current Minister has demanded TOC to focus more on strategic matters and less on operational issues. This demand seemed appropriate unless that they are, at most time, interrelated and influential to each other.

“The Minister told us to focus more on strategic issues and not on incidental operational matters.” (Interview No. 4)

These examples have shown how prone and powerless TOC is to high-tiered interference. The fact that the Minister appoints TOC members puts great

restraint on their activities; they work as though there are invisible shackles on their hands, as confirmed by one of the Commissionaires:

“We are appointed by the Minister, so we follow her rhythm. The previous Minister wanted us to give various perspectives, even the critical ones so that he could have comprehensive information before making decisions. The current Minister, however, requires us to provide complementary inputs.” (Interview No. 7)

However, there was a different view on the Secretariat.

“We put this restriction upon ourselves; No rule limits our independence.” (Interview No. 3)

From these two opposing views, it is comprehensible that what prevents TOC from performing all-out supervision is the self-restraint related to commissionaires’ professional background as former employees. This mindset has rubbed off into its approach.

“The internal working culture within TOC is now more accommodative rather than confrontative. Thus, the standing position is getting less critical towards the government.” (Interview No. 3)

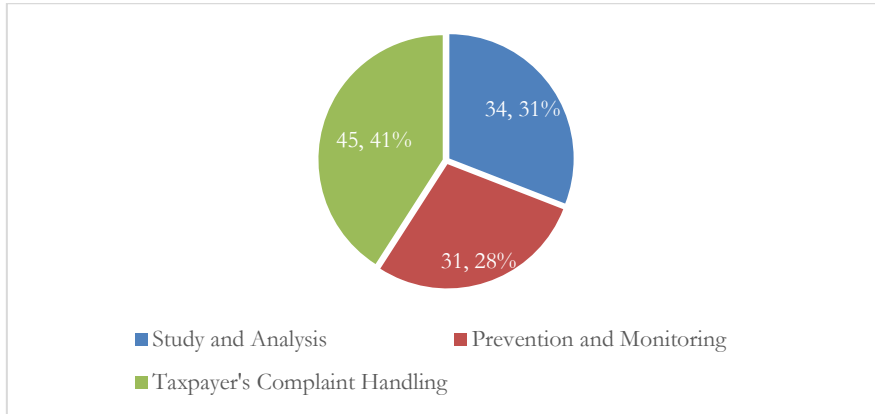
However, a twist happened in early 2018; the previous Chairman resigned from his position. Internal sources admitted that he was disappointed and felt that the Minister did not appreciate TOC after all the efforts in producing the recommendation was greeted apathetically. This lacklustre response is reflected in the statistics, where only 10% of TOC’s recommendations were implemented from 2015 to June 2018. Shortly after, the Vice Chairman got promoted, and the Minister decided not to select a replacement, leaving four Commissionaires to work since the two *ex-officio* members hardly pull their weights. This tidings indicated that TOC’s importance in front of the Minister might have subsided.

### **Compliance Assurance**

Usually, tax ombudsman poses extensive ability to perform its roles, but it is weak in enforcing its verdicts (Waseem 2011:63). In monitoring and evaluating recommendations, TOC and the Secretariat employ two methods. First, they set quarterly meetings with the liaison officers to get information about recommendation implementation progress. These meetings also serve to remind DGT and DGCE leaders of pending recommendations. Secondly, they intensively coordinate with the Minister’s staff to be immediately informed of her decisions and instructions.

As seen in Figure 3, from 2015 to June 2018, TOC has produced 110 recommendations. Forty-five per cent of them came from Taxpayer’s Complaint Handling Facilitation Division, 31% from Study and Analysis Facilitation Division and 24% from Prevention and Monitoring Facilitation Division. These percentages indicates that while the highest number of total recommendations is coming from taxpayer’s complaint, TOC has also been productive in providing technostructural intervention with 65 recommendation letters.

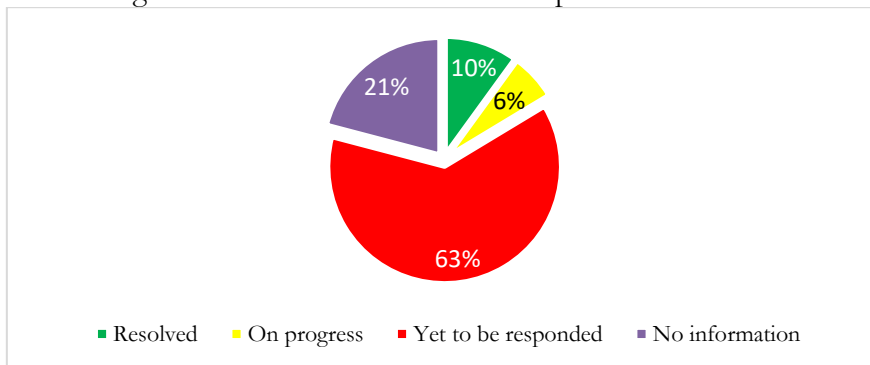
Figure 3 TOC Recommendations Based on the Substance 2015-June 2018



Source: Tabulated from Secretariat of TOC Monitoring Data

However, there is a huge implementation gap in those recommendations. Figure 4 indicates that only 10% of the total 110 recommendations were implemented, while 6% is in progress. Most of them have been received, but there is yet any response, while the information of the rest 21% of them is not available. Combined with the ones in progress, 18 (16%) recommendations were accepted in 3.5 years.

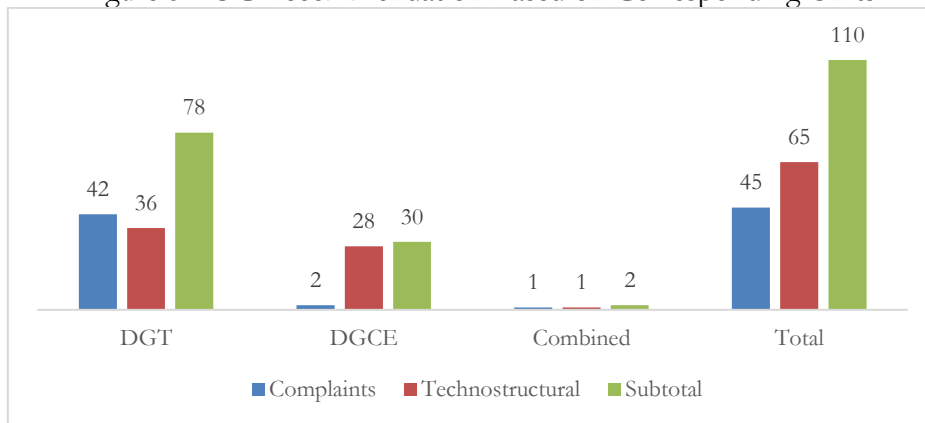
Figure 4 TOC Recommendation Implementation Rate



Source: Tabulated from Secretariat of TOC Monitoring Data

If the implementation rate is broken down according to the designated units, the composition would be as presented in Figure 5. Out of 110 recommendations, DGT received 78 letters, while DGCE received 30 letters. The rest bear combined matters, whose implementation would require them to cooperate. The considerable difference in recommendation number between these two units lies in the taxpayer's complaint. During the period, there were 42 recommendations related to complaints were sent to DGT, while only two letters were addressed to DGCE.

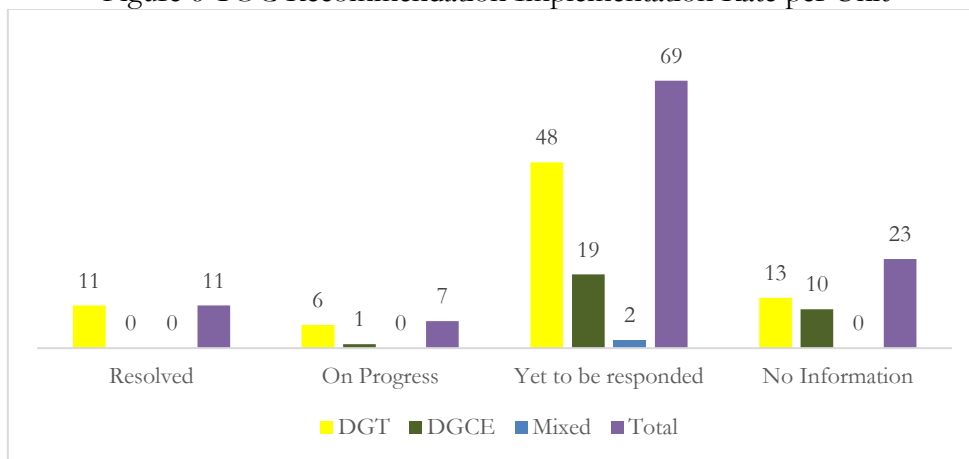
Figure 5 TOC Recommendation Based on Corresponding Units



Source: Tabulated from Secretariat of TOC Monitoring Data

Even though more letters addressed to DGT, its implementation rate is much better than DGCE's; 11 out of 78 recommendations have been resolved. In other words, all of TOC's recommendations that have been implemented were addressed to DGT. Figure 6 indicates that, during the past 3.5 years, DGCE has only been responding to one recommendation, which is still on progress. Nineteen letters are not yet responded, and the progress of the rest ten recommendations is unknown.

Figure 6 TOC Recommendation Implementation Rate per Unit



Source: Tabulated from Secretariat of TOC Monitoring Data

Internal sources expressed their thoughts:

“The numbers do not lie. During the first semester of 2018, there has been no response or disposition of our recommendation, which is very worrying.” (Interview No. 3)

“Yes, it is disappointing, but it is not like we can do anything about it. We give them recommendations, and it is up to them to take them or not. Also, many dispositions to implement our recommendation are not informed back to us.” (Interview No. 4)

Some of the internal sources offered various reasons why the implementation level is low. First, not all dispositions are recorded officially.

“The number cannot be considered as the real condition because even though they are not recorded in monitoring data, some issues coming from TOC's

recommendations are being followed-up either at the ministry or tax authority level.” (Interview No. 1)

“For some cases, it is just instructed to be implemented without us knowing.” (Interview No. 6)

Secondly, the recommendations can be classified as short, medium, and long term. Therefore, the implementation might need more time.

“The recommendations can be classified as short, medium, and long-termed. Therefore, the low rate of implementation may be because the recommendations need more time to implement.” (Interview No. 2)

The final reason is the ineffective monitoring and evaluation system.

“The monitoring system only tracks written disposition from Minister, but sometimes the orders were given directly without one, such as in meetings. Thus, they are not recorded in the system.” (Interview No. 1)

“We need to improve the monitoring mechanism to get more accurate information.” (Interview No. 2)

To conclude, internal personnel believes that the causes of low recommendation implementation level are an unwritten disposition, long implementation time, and ineffectual monitoring and evaluation system. However, external sources offered a different opinion.

“The recommendations are often untimely; they lost the momentum. Moreover, sometimes, the substance is inappropriate to the given circumstances.” (Interview No. 10)

“Since the second period, TOC takes a more academic approach in producing recommendations. Although at some point it improves the quality, it also costs TOC the momentum. Furthermore, the products are often not strategic enough. Some of them are even obsolete; our unit has already been working on those issues.” (Interview No. 11)

“The problem is there is no clearly defined mechanism between our implementing units and TOC. They have no way to get feedback on the implementation progress. The meetings only check the status of the recommendation letter, not the process. Secondly, TOC's recommendations have no binding force, unlike Inspectorate-General's and Audit Board of Indonesia's, which are mandatory and have defined process and deadlines. Consequently, DGT put a higher priority to their recommendations than those of TOC's.” (Interview No. 12)

The externals view insufficient importance, the lost momentum, unclear mechanism, and weaker stature compared to other supervisory units cause the low implementation. However, another internal source argued that the underlying cause of this problem is that TOC's recommendations are not mandatory; no rule nor regulation obliges DGT and DGCE to implement them. The organisational culture in Indonesia demands everything to be ratified by law. Therefore, to increase the implementation, there is one thing that can be done: make TOC's recommendation mandatory.

“We need to make our recommendation mandatory.” (Interview No. 5)

To have authority to enforce its recommendation is corresponding with the preconditions in Chapter 2 and similar to what has been practised in Australia and the USA.

### **4.1.3. Analysis**

#### **Recruitment**

To select and appoint TOC members is, by law, the Minister's prerogatives. However, the nonexistence of any procedure in how she should do it has risen uncertainty. Throughout three periods, the recruitment process was getting less transparent, and the direct appointment in the latest period might have compromised TOC's independence. Moreover, it might have raised the sense of servitude among the commissioners, and the fact that most of them are former officials within the ministry strengthens this culture.

The selection process of an ombudsman unit serves as one of several ways to measure its independence (Waseem 2011:68). However, even though the TOC is not appointed by the parliament, an open and transparent selection and appointment process would increase its independence and in turn, allows TOC to earn more credibility from both the taxpayers and the tax authorities.

#### **Representativeness**

For an organisation that claims to be independent and promoting fairness by protecting taxpayer's right, TOC lacks representativeness. It is doubtful whether a committee consists of 80-90% former officials can clear their judgement from any bias. The public communication events might provide inputs about issues faced by the taxpayers. However, the fact that there is no taxpayer's representative encourages TOC's bias towards its 'employer'. This tendency was confirmed by one insider who admitted that even though the regulation states that it is independent, TOC, in practice, has not been entirely impartial. It takes government side 80% of the time.

Furthermore, having wide-ranged members would increase TOC's representativeness. It is essential to ensure its impartiality by having the commissioners check each other. Therefore, the decision-making process would be more democratic, and the decisions would be more just and fair.

#### **Intervention from Other Parties**

TOC's inability to prevent and avert intervention contrasts with Waseem's (2011) idea of an ideal ombudsman. The examples have shown how prone and powerless TOC is to higher-tier interference, although the regulation explicitly states its independence. This interference has discouraged TOC to perform all-out supervision and reduced its role to be complementary. The resignation of the previous Chairman confirmed the lack of appreciation enjoyed by TOC. Moreover, the Minister's decision not to select a replacement showed that although it keeps producing recommendations, the importance of TOC might have subsided.

#### **Compliance Assurance**

Some internal sources see that the inadequate system causes low implementation level, while the externals view insufficient importance, lost momentum, unclear mechanism, and weaker stature compared to other supervisory units as the underlying causes. However, an internal source agreed that the leading cause of this problem is that because TOC's recommendations have not been made mandatory. No rule nor regulation obliges DGT and DGCE to implement them.

TOC's inability to secure compliance from its counterparts contribute to the lack of operational independence argued by Waseem (2011). It is also relevant to the tensions between technostructure and the operating lines presented by Nystrom (1986) and Browne and Golembiewski (1974), where the lines failed to comply with technostructure's interventions. This situation defies one of Serano's (2007) preconditions that enables satisfactory performance from tax ombudsman: to secure compliance.

## **4.2. Organisational and Institutional Capacities**

The organisational capacity relates to how well the organisation's machinery works. If the internal condition is uncondusive, the procedures are not followed, and the functions are not executed well, the recommendation quality would deteriorate and not be good enough to be implemented, let alone enhancing the system. On the other side, an institutional capacity determines to what extent the rules allow a unit to perform effectively.

The following subsections examine TOC's organisational and institutional capacities. They focus on codes of conduct and standard procedures, which influence the decision-making process, the way they cope overlaps with other units, and the execution of authorities.

### ***4.2.1. Codes of Conduct and Standard Procedures***

The first factor that contributes to organisational capacity is the internal working process, i.e., codes of conduct and standard procedures. The codes of conduct give clear boundaries on what TOC Commissionaires can and cannot do, while standard procedures guide them to do the job. Procedures would also ensure that the job is done indiscriminately and transparently. Both attributes shape the decision-making process in TOC.

The astounding revelation came when it was disclosed that there are no codes of conduct and standard procedures applied to the Commissionaires. The Secretariat, on the other hand, must abide by the general civil service codes of conduct and has established standard operating procedures, which are also requirements for all Ministry of Finance units. This condition is confirmed by internal informants:

“TOC takes a case-by-case approach in solving each matter. No standard whatsoever.” (Interview No. 1)

“For secretariat yes, we do (have codes of conduct and standard operating procedures), but not for TOC. There is no procedure at all.” (Interview No. 3)

The absence of these features created several problems. First, there are no clear job description and division of labour between TOC members. Two Commissionaires admitted that:

“Currently the division of labour is by our agreement and has not been ratified. However, I do understand that it is not very professional.” (Interview No. 4)

“No procedure is in place, the arrangement (a division of labour) is informal, although it is still effective up to this point.” (Interview No. 5)

Furthermore, a source from the Secretariat, saw this as a serious matter:



“The current case-by-case approach creates unequal treatments. No standard to decide if a case is strategic enough to be handled by TOC. As a result, two similar cases could be treated differently.” (Interview No. 2)

The absence of the codes of conduct also disrupted the decision-making process. Since there is no prohibition for TOC members to hold on other jobs, some of them are still attached to tax consultant offices, and there were times when they seemed like they were pushing some issues in their clients’ favour.

Furthermore, without standard procedures in place, TOC tend to act discriminately. TOC might conscientiously handle complaints from high profile taxpayers while at the same time, they might neglect similar cases from unknown complainants. This concern was expressed by the taxpayer’s representative:

“Current working style still depends a lot on a personal relationship. If the taxpayers do not know TOC personally, there is a little chance that their cases would be taken up seriously.” (Interview No. 8)

Aside from the taxpayers, the ones who suffer are the Secretariat’s personnel since they must adapt to TOC’s inconsistent decisions. They are also the ones that must face the taxpayer because the Commissionaires are not always available, another downside for not having internal rules.

#### ***4.2.2. Intersection with Other Supervision Units***

The attribute is the ability to deal with overlaps with other organisations. Currently, DGT and DGCE have four organisations supervising them. They are the Audit Board of Republic Indonesia (BPK), Development and Finance Audit Agency (BPKP), Inspectorate-General of Ministry of Finance, and TOC. Additionally, because of numerous corruption cases involved their officials, the Corruption Eradication Commission (KPK) also fixes its eyes to DGT and DGCE. Their presence makes it seems like DGT and DGCE is overly watched. More importantly, it also raises a question, what difference does the TOC bring?

The answer to this question is that as a tax ombudsman, TOC is the only one that will respond to the case in which the damage would be on the taxpayer’s side; other units would only respond to cases inflicting state loss. In other words, this distinctive characteristic enables TOC to perform taxpayer advocacy. A Minister’s Expert Staff said that:

“TOC has a special function, that is to advocate taxpayer's rights. A function that is not shared by other units.” (Interview No. 9)

The Chairman supported this statement by explaining that:

“TOC has two unique points: first, it can have different or even critical views towards government's policies; and second, it provides the second opinion from a more comprehensive angle for the Minister.” (Interview No. 7)

Nonetheless, with many agencies setting their eyes on DGT and DGCE, there is a high possibility that they would cross path along the way. Therefore, it is crucial for TOC to have protocols when these overlaps happen. However, these protocols are not currently in place, as explained by a Commissionaire:

“Truthfully, there has not been formal coordination between us (TOC and other units). Even with the Inspector-General, who is one of our members and with whom we wish to share the information.” (Interview No. 4)

This condition reflects TOC's weakness in inter-organisational networking. It is appalling that an organisation that has been established for years still does not have established protocols to deal and coordinate with other similar units. It suffers from its inability to institutionalise an informal relationship once built by its personnel, as stated by one internal source:

“Previously, through a personal relationship, the coordination with the Inspectorate-General was well established. However, as the officials transferred, the intensity lowered up to the point where a reestablishment is needed.” (Interview No. 3)

The coordination with Inspectorate-General should not have been a problem since the Inspector is one of the Commissionaire. Nevertheless, the effort toward better coordination and more inclusive supervision have been started. There is a plan in motion to constitute an agreement between TOC, Inspectorate-General, and DGT's and DGCE's internal compliance units (KITSDA and PUSKI, respectively) to coordinate complaint handling activities, as stated by a Secretariat official:

“Currently, we are working on an agreement with the Inspectorate, KITSDA, and PUSKI regarding taxpayer's complaint handling.” (Interview No. 3)

#### ***4.2.3. Authorities***

This subsection examines a couple of TOC's strategic authorities, and whether they sufficiently enable effective performance. It also looks at additional authorities needed to improve TOC's worth as an organisation.

The first authority is to get data and information from tax authorities. In its early years, TOC suffered withdrawn attitude from tax officials, especially DGT. They argued that they could and should not share the information with TOC, as mandated by Article 34 General Taxation Regulation and Procedure Act 36 2007 about confidentiality. This condition hampered almost all other functions such as observation of policy implementation, complaint handling, research, and education. The good thing is, after prolonged deliberation, this issue was resolved by the ratification of Minister of Finance Decree 310/KMK.03/2017 that gives TOC access to DGT's data and information. This newfound access would improve TOC's performance in observing tax policies and enhance its acuteness in researching taxation issues.

The next authorities are to handle taxpayer's complaints and mediate disputing parties. These authorities resemble the Alternative Dispute Resolution (ADR), one prevalent function in tax ombudsman. However, the complaint handling process in TOC has not been recognised as ADR since the decision on which action to take to resolve the complaints still lies in DGT or DGCE. The person in charge of these functions explained:

“TOC has not been officially titled as a tax ombudsman, even though we perform some of its functions. Therefore, we do not have the authority to perform real ADR. We only analyse the facts and recommend some viable solutions based on existing regulation, or even suggest a regulation change if needed but we do not decide what course of action to take to resolve the complaints.” (Interview No. 2)

Consequently, to be able to perform real ADR and thus, handle complaints more effectively, TOC needs a legal basis that firmly regulates its ADR authority,

the legal position of its decision, and the consequences of noncompliance if DGT and DGCE refuse the resolution offered.

Aside from the existing authorities, it is also interesting to get both internal and external sources perspectives about additional authorities that might improve TOC's effectiveness. Regarding this matter, there are two opposing views; ones that agree that TOC could do with more authorities, and others, who think that TOC just needs to optimise its performance with current authorities.

The supportive ones argued various authorities to enhance TOC's effectiveness. One of the popular suggestions is to make the recommendation mandatory, as expressed by internal sources:

“To increase effectiveness, TOC may need a rule ensuring implementation of its recommendation. However, this rule has to be well-considered to prevent a potential rift between the tax authorities and TOC and be effective.” (Interview No. 1)

“I strongly advise making the recommendations, especially on taxpayers complains, compulsory, because the Minister and tax authorities need to maintain a positive relationship and mutual trust with taxpayers.” (Interview No. 2)

The second idea is to establish an ADR mechanism to give TOC authority to resolve taxpayer's complaint without being dependent to DGT or DGCE. Some sources supported this idea:

“(We need) Authority to perform alternative dispute resolution.” (Interview No. 5)

“...rules and authority about ADR. Currently, TOC can only follow up less than 50% of the complaints, and it cannot fully resolve taxpayer's complaint. We do have the authority to mediate the conflicting parties, but that function is barely performed right now since there has not been any procedure for it.” (Interview No. 6)

#### ***4.2.4. Analysis***

##### **Codes of Conduct and Standard Procedures**

The current working arrangement in TOC, where no codes and standard procedures exist, is recognised as mutual adjustment, where the coordination among commissionaires, including the division of labour, is done by informal communication. Mintzberg (1979:3) argues that “under mutual adjustment, control of the work rests in the hands of the doers”. Therefore, the members must adapt to each other to find the best methods.

However, the Secretariat staff reacted poorly to this arrangement. They felt that there are more harms than benefits brought by such mechanism. Discrimination towards complainants, potentially compromised integrity, informality, and favouritism are the implications of this method. Moreover, it also brought uncertainties and inconsistencies to the staff.

The Secretariat's unrest is arguably valid since Article 4 verse 3 Reg. 63/PMK.01/2016 states that “in performing the supervisory functions and authorities, the Chairman of TOC enacts work guidelines”, which has not been established.

## Intersection with Other Supervision Units

As has been explained previously, TOC's inter-organisational networking is not encouraging. This situation might be the result of the Single Purpose Organisation adopted by the Ministry of Finance, which caused rigid specialisation among its units. In addition, since no official mechanism in place, coordination with other units was built upon personal relationships, which proved to be not sustainable. It is also intriguing if TOC could not synchronise with Inspectorate-General since the Inspector-General herself is a member of TOC.

This quandary might also be related to the absence of codes of conduct and standard procedures in TOC. If there is a clear job description and division of labour among commissioners, *ex-officio* members such as Inspector-General, and Secretary-General, would contribute better, and coordination between TOC and Inspectorate-General might be more intensive, which might reduce overlap in performing their functions.

The negative implication of the lack of coordination also hits the implementation of TOC's recommendation. One of the reasons for the low implementation level discussed before is because DGT and DGCE prioritise the recommendations of other units, such as Inspectorate-General and Audit Board of Indonesia ahead of TOC's. If the coordination was effectual, these units could work together to produce joint-recommendation. It would be easier for DGT and DGCE to implement one comprehensive recommendation than several partial ones. Also, TOC would be more effective since the joint-recommendation would more likely be implemented.

## Authorities

There are three things to highlight from the findings of TOC's authorities. Firstly, the need of legal provisions to perform ADR. Currently, TOC has the authorities to handle taxpayers' complaints and mediate disputing parties, which are hardly adequate for the complainants, who expect their cases would be thoroughly resolved. By having well-established ADR function, TOC could see every complaint through and not leaving the final decision to DGT and DGCE. ADR function also provides faster and more affordable measure to settle disputes, compared to traditional litigation. This additional authority is in line with one of Serrano's (2007) enabling preconditions, that is to establish tax ombudsman as an alternative to the conventional litigation process.

Secondly, there has been a growing concern to make TOC's recommendation mandatory. This concern is understandable looking at the current implementation level. However, making TOC's intervention compulsory might exacerbate TOC's relationship with DGT and DGCE. In turn, it might cost TOC their future cooperation. Alternately, there are other ways to optimise the level of recommendation acceptance, which shall be discussed in subsection 4.5. about Interest Alignment.

Lastly, and interestingly, no suggestion for additional authority came from DGT's and DGCE's liaison officers. They both agreed that TOC is already equipped with sufficient 'weapon', and it should just 'focus' on the authorities it has. While their argument might be valid, it is also conceivable to look at it as a reluctance towards more incisive supervisory actions should TOC be given more power. However, it would need more profound research to confirm this premise.

### **4.3. Resource Availability**

Resources are essential factors for an organisation to work effectively. It is impossible to produce quality output without enough funding and adequate human resources. This subsection pictures financial and human resources available in the Secretariat to support TOC.

#### ***4.3.1. Financial Resources***

There is an agreement among internal personnel that the initial budget is adequate to cover operating cost. It is carefully planned to accommodate the expenditures. However, the Secretariat is structurally below the Secretariat-General. Therefore, it must abide by its general policies, including the budget-efficiency policy.

Over the past four years, there has been a general budget-efficiency policy within the Ministry of Finance. This policy has each unit cut 20%-30% of their budget without adjusting the outputs. The personnel felt that without rationalising the target, this policy had harmed the quality of their outputs.

“To produce a quality recommendation, we need sufficient data, which cannot be acquired without firm financial support. The Secretariat-General’s cutting the budget does no good for us. We must cut our funding and has to maintain the same quality of work; it is impossible. We need to emphasise our unique traits and explain why we could and should not be included in that policy.” (Interview No. 3)

Moreover, the budget scheme is not flexible enough to accommodate the organisation’s dynamic. A tedious procedure needs to be taken to shift the budget from one post to another. Even though the Secretariat staffs understand that the procedures are already set, they still feel it is too rigid to accommodate TOC’s business process.

#### ***4.3.2. Human Resources***

The Secretariat has 50 staffs, including 17 in managerial positions. Their expertise varied from the economics, accounting, tax, customs and excise, treasury, training, and education. This number is not ideal. Typically, a similar stature organisation commands 80 to 120 personnel.

Limited staff means a limited capability to perform better. Secretariat’s human resource manager has informed this deficiency and requested more personnel to the Secretary-General. However, the Secretariat has only received several new staffs since its establishment. For comparison, in 2011 there were only 30 staffs and officials, so in seven years, only 20 persons were added into the Secretariat. The officials confirmed this inadequacy:

“It is not ideal (the number of staffs). Unfortunately, TOC or secretariat depends on the Ministry of Finance’s and cannot add or reduce the employee.” (Interview No. 1)

“No, it is not ideal. We need more people. However, we try to do our best with available personnel.” (Interview No. 2)

The ratio of the Secretariat's employee to the units it oversees is low. Per October 2018, DGT has 42,380 employees, and 15,550 staffs work for DGCE. In other words, a Secretariat staff is overseeing 1,159 employees.

From the competency perspective, available talents are considered to have considerable knowledge and skills. Most of them are former DGT and DGCE officials, so they have a good grasp of their business processes. However, there is one drawback: most of them have stayed in the office for too long. Some of them have been in the job since 2010. They even held the same post until early 2018, when there was an internal rotation among them.

For personnel to hold the same position for years is uncommon in modern organisation principles. It poses adverse effects on the personnel themselves, and on the organisation. The staffs would have a motivational issue and succumb into their comfort zone. Moreover, on the extreme cases, they may become more susceptible to committing frauds, since they might have known all the fissures and ways to exploit them to their benefit.

The next to suffer is the organisation, where there would be less excitement, innovation, and new knowledge that usually comes with the newcomers. Individual performance might as well drop and deteriorate the organisation output quality, as has been raised by an internal source:

“There is a pressing concern: in the last few years, we only got intakes from fresh graduates who do not have the required experience to perform at this level. Since TOC only has a short period, they need experienced personnel, so they can hit the ground running.” (Interview No. 6)

This predicament might be caused by the ineffectual human resource and career management. Because of its unique characteristics, Secretariat's employees have limited career option among Secretariat-General units; it can only 'exchange' staff with the Secretariat of Tax Court. Other units' and TOC's business processes are like chalk and cheese. Conversely, the Secretariat also needs personnel changes with specific knowledge and skills in taxation and customs and excise.

“The secretariat should be the stepping stones for these potential talents. They cannot be here forever. They need a clear career path to fulfil their potential and keep them motivated. It will benefit the organisation to have new personnel occasionally.” (Interview No. 4)

Best practices indicate that direct personnel transfer can provide knowledge exchange between authorities and their oversight counterparts, and this practice will benefit them in the long run. IGT Australia has this policy practised. It solves the human resource problems in three ways. First, the staff would be replaced occasionally, with a new person. Hence, the motivational issue will be addressed. Secondly, the organisation benefits from the knowledge embedded in the newcomers, who provide immediate upgrades to the unit's overall capacity. Finally, oversight unit's employees transferred to supervised units could be the change agents in their new job, providing the insights on what is expected by the oversight unit.

However, this seemingly obvious solution faces several obstacles. The first challenge is the remuneration discrepancy between them. DGT staff would have to accept a lower wage if they were to join the Secretariat. One scenario to solve this is to raise Secretariat's remuneration, so the exchange would not be hindered

by financial reason. However, this scenario might be difficult to apply due to the high budget requirement.

Another hindrance to implementing staff exchange is the reluctance of the supervised unit to allow its talents to join the Secretariat. This reluctance was reflected when some of DGT staffs applied for the Secretariat jobs in open bidding. When they had passed the test and were ready to join, DGT blocked the move stating that DGT still needed them. This reason was rather absurd because before applying, they had to get permission from their superiors. A manager in the Secretariat confirmed these two obstacles:

“... the gap in remuneration between tax officials and TOC's staff also brings an obstacle to the plan. In addition, the tax authorities, especially DGT is unwilling to transfer their talents to TOC.” (Interview No. 2)

A few years ago, there was an agreement between the Secretariat, DGT, DGCE, Fiscal Policy Agency, Inspectorate-General, and Secretariat of Tax Court about the staff exchange. However, that agreement has been hardly honoured, with the exchange happened is only between the Secretariat and DGCE.

Nevertheless, efforts were made to relive this agreement. The Secretariat has approached Secretary-General, as the highest authority in human resource management in the Ministry of Finance and as a member of TOC, to get this plan going. Unfortunately, he did not approve it, as stated by one source:

“We have suggested this to Secretary-General, as the highest authority in human resource management in Ministry of Finance. However, he has not given his approval (to this suggestion).” (Interview No. 2)

To counter this issue, the Secretariat holds capacity building programs to upgrade its employees' knowledge and skills. It has secured cooperation from Finance Education and Training Agency (FETA) to hold regular tax and customs training for the staff. This attempt is seen as an alternative to knowledge acquisition attained by the staff exchange program, even though it does not bring the practical experience to solve the persisting problem.

### ***4.3.3. Analysis***

#### **Financial Resources**

The financial issue happening in TOC might appear because of TOC's and the Secretariat's failure to convince the Secretary-General, that they are supposed to be exempted from the efficiency policy. The status of Secretary-General as one of TOC members has not been optimised. This issue might also relate to the unclear job description for each commissionaire, rendering dismal contribution from Secretary-General, who has the authority to ensure TOC operates with an adequate budget.

#### **Human Resources**

The human resources issue can be classified into two problems, quantity and quality. The current employee ratio shows that TOC needs more workforce to perform effectively. The question is, how many more does it need? The supervision done by TOC is not an oversight such as done by managers towards their subordinates; the ratio does not reflect the 'span of control'. Moreover,

there has been yet any literature which states the ideal ratio of ombudsman employee to its counterparts' staff.

However, TOC's current employee number can be compared with Inspectorate-General's workforce, who also supervises DGT and DGCE, which currently stands at 129 personnel (Human Resource Bureau 2018, Inspectorate-General 2018). Therefore, if this number were considered ideal, TOC would need 79 more people to perform as effective. For the quality, the matter lies in the human resource management or lack thereof. The failure to secure a consensus with DGT and DGCE to regulate employee exchange plays a significant role in TOC's staff stagnation. Moreover, the Secretary-General's rejection of Secretariat's proposal is also discouraging.

Overall, the financial and human resources issue in TOC confirms Waseem's (2011) claim; it impedes its performance. The underlying cause of Secretariat's financial and human resource deficiency is the dependence to and limitation set by the Secretary-General. To resolve them, Secretariat and TOC need to demand more commitment from the Secretary-General to help to address these issues as a form of his contribution as a TOC member. He could and should experience first-hand how TOC's duties and tasks require more flexible budget policy and more dynamic human resource management to generate more effective performance.

## **4.4. Democratic Control**

The fourth attribute influencing a tax ombudsman effectiveness is democratic control. Nowadays, public scrutiny serves as an effective control for a government agency. For a unit like TOC who strives to promote taxpayer's rights, being publicly open could secure public trust and support, especially if its counterparts demonstrate less courtesy towards its recommendations.

This section describes TOC's legal basis and the current state of publication, dissemination policy, and complaint handling transparency.

### ***4.4.1. Legal Basis and Current State***

TOC has no specific ruling about what information it can and cannot publish. The only relevant rule is the Act 14 2008 about Public Information Transparency, which does not include the information processed by TOC as confidential. To reach the public, TOC utilises several platforms. It has an official website, which currently contains information on profile, organisational structure, news, articles, and the taxpayer's complaint line. It also utilises social media such as Twitter, Facebook, and Instagram to provide information on tax procedures, and updates on TOC's recent activities. Aside from online platforms, TOC holds quarterly public communication, where taxpayers, tax consultants, business association, government official, and other relevant parties are invited to express their concerns, complaints, and suggestions about tax administration.

However, even though publication is becoming more critical, there was no dedicated division to handle it. The Secretariat had proposed a new division devoted to data and information management in its restructuration plan. However, this plan was disapproved by the Ministry of State Apparatus Empowerment and Bureaucracy Reform, who preferred to convert one of Secretariat's existing



division to manage data and information than adding a new division. Considering the urgency, the proposal was adjusted, and the data and information management is now handled in a subdivision level.

#### **4.4.2. Information on Recommendation**

Reviewing the information provided in TOC's various online and offline platforms above, there is one crucial information left out: its recommendation. TOC only provides the recommendations statistics in the public communication events, and the public cannot access the substances.

Recommending improvement to tax administration is TOC's primary value, its *raison d'être*. Despite this, TOC decides to make its recommendations limited to the Minister, DGT, and DGCE. The Commissionaires prefer this cautious approach because they feel the public only need to know the end product, not the process, as stated by the sources:

“Our recommendations are confidential. They are for our stakeholders' eyes only. Surely, we could not make them public. Public only needs to know the result (policies) not the policy-making process.” (Interview No. 4)

“TOC keeps all of its work wrapped because the job is done for the Minister and it has no obligation to make it public. If it were made public, there would be open conflict between TOC, Minister, and tax authorities.” (Interview No. 3)

The policy to keep recommendations off public raises a question, especially when TOC are hardly noticed by the DGT and DGCE. The public can provide social pressure for them to immediately implement the recommendation, provided they are indeed fair and promoting taxpayer's rights.

There are two reasons why TOC takes this cautious measure. One insider expressed his view:

“From my perspective, it is because TOC is not confident about the quality and validity of its work, so it worries if the recommendation is used in court as one of evidence. It also frets if there would be parties who would put a lawsuit against TOC because of the content of its products.” (Interview No. 3)

The lawsuit threat here means if the published recommendation was used as evidence in court, the losing parties, either taxpayers or tax authorities, might sue TOC as the side responsible for the recommendation content. However, if TOC is confident about the quality of its recommendation, it should not need to worry about this challenge.

Secondly, an external source thought that the underlying cause of unpublished recommendation has everything to do with TOC's pseudo-independence.

“Well, it relates closely with independence. If TOC is not fully independent, they are still being restrained from doing things that may provoke disagreements within the Ministry of Finance.” (Interview No. 9)

This view is confirmed by TOC Chairman:

“Our products are for the Minister; hence it depends on her whether they can be published or not. If the Minister gave the order to make our recommendation public, then we will do so.” (Interview No. 7)

However, there is a growing restlessness in the Secretariat staff. They felt that TOC should be more transparent and accountable by making recommendations publicly accessible.

“I think we need to go public. One part of good governance is the establishment of standard procedures so that we can be confident about our products and thus we can be transparent and publish them. On the contrary, non-transparency may indicate frauds and power abuse” (Interview No. 3)

#### ***4.4.3. Information on Complaint Handling***

TOC’s policy for transparency in complaint handling process is not different from recommendation dissemination. It even has a potentially more adverse effect on the public opinions about TOC’s credibility. In its platforms and public communication events, TOC encourages taxpayers to convey their complaints and suggestions. However, after the handling process is done, TOC does not give them the copy of the recommendation explaining TOC’s official standing position regarding the case. Oddly, this happens only when the fault is in the tax administrators. On the contrary, TOC has no problem informing the taxpayers if the result shows that the tax authorities have done the right thing.

“The complainants cannot be given any official documents about the progress of their complaint. TOC has the policy only to show them the recommendation but not the copy of the letters.” (Interview No. 2)

The primary reason why TOC is doing this is that if the taxpayers get their hands on the letter, they can misuse it and bring TOC, Minister, and DGT-DGCE into open conflict. This policy can potentially backfire because TOC may lose the taxpayers’ trust. On the one hand, they handle in their complaints and put their faith in TOC to resolve them. On the other hand, TOC does not trust them enough with its recommendation. The taxpayer might feel betrayed by such treatment.

#### ***4.4.4. Analysis***

Even though no regulation keeps a tight rein on what information can be shared and what not, TOC chooses to take a cautious approach in its publication policy. Three factors cause this attitude. First, it has little confidence in the quality of the recommendation. Therefore, the commissioners would rather avoid public scrutiny towards them. Second, TOC operates in the pseudo-independence environment. This means it would prefer to elude any confrontation with the Ministry, DGT, and DGCE. Finally, it does not want the taxpayers to use the recommendations as evidence against the government in any litigation process.

This policy has cost TOC its credibility and an opportunity to win public support. Without being transparent to the public, it cannot utilise social pressure towards its counterparts to take its recommendations more seriously and implement them. This condition would damage its ability to be heard since developing firm community control is one of the tax ombudsman functions (Serrano 2007). If TOC still wants the public trust, it needs to change and become more informative and transparent.

## 4.5. Interest Alignment

TOC's strategic position has placed it at a high-level policy arena within the Ministry of Finance. To thrive at this level, it needs to compromise with related parties, especially if it has conflicting interests with the others. TOC's missions to uphold justice and fairness in tax administration and protect taxpayer's rights might result in lesser tax revenue, an antithesis of the Minister's, DGT's, and DGCE's interest. Among other things, this mismatch has become the reason why the implementation rate is low, as admitted by the Secretary:

“Sometimes, the issue is an incompatibility with their agenda...” (Interview No. 1)

This ‘incompatibility’ might have an adverse effect and cause tensions between TOC and these entities, which resulted in lesser recommendation implemented. To further assess the relationship between them, this section captures the perceived benefits of TOC's establishment from DGT, DGCE, and taxpayer's representative perspective. It also presents what effort has been done by TOC and the Secretariat to improve its recommendation acceptability and sees whether it deters the conflicting interests.

### 4.5.1. TOC's impact

To understand TOC's standpoint in the policy arena among the Minister, DGT, DGCE, and the taxpayers, it is crucial to seek their opinion on TOC's impact. The Secretary and a Head of Division claimed that their counterparts at DGT and DGCE always find TOC helpful and beneficial.

“At times, they do consider our interventions useful, especially in meetings, where they express their appreciation of TOC's efforts.” (Interview No. 1)

“Yes, some of our recommendations were being referred to when they issued new policies or revised the existing ones.” (Interview No. 2)

This claim was confirmed by the Minister's Expert staff, DGT, and DGCE liaison officers, who unanimously agreed that TOC has been helpful in preventing them from being unchecked and acting unlawfully. Moreover, they also claimed that having TOC overseeing them helps them to gain more public trust.

“Yes, TOC plays the role as a catalyst to develop an auto-critic function to improve our performance.” (Interview No. 10)

“TOC provides an outsider outlook of how DGCE operates. This opinion is helpful to optimise our public services.” (Interview No. 11)

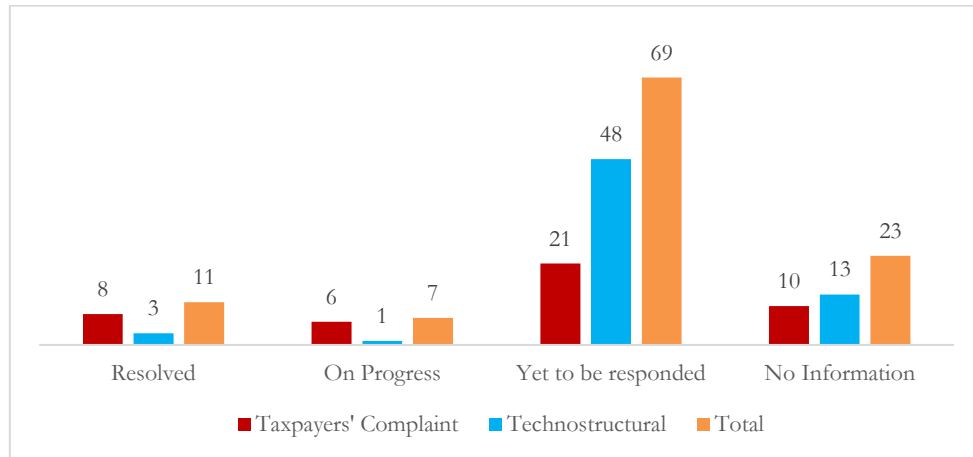
“From my perspective, DGT could use TOC's recommendation to evaluate any loophole and fix it. I see that with TOC around, there is a way to show the taxpayers that DGT is constantly being watched, and thus improving their trust.” (Interview No. 12)

From the taxpayer's point of view, TOC has been able to provide an alternative where they hope they can solve their tax problems.

“It reduces our anxiety, knowing that our problems are, at least, being heard and worked out. It also serves as a way to solve problems without commotion.” (Interview No. 8)

The claim from the taxpayer seemed legit since the statistics show that on the one hand, most of TOC's recommendations that have been implemented came from taxpayers' complaint, as shown in Figure 7. On the other hand, it means that TOC's self-initiated recommendations to improve the system, procedures, policies, and performance, in other words, its technostructural interventions, were largely neglected by DGT and DGCE.

Figure 7 TOC Recommendation Based on Type of Recommendation



Source: Tabulated from Secretariat of TOC Monitoring Data

#### 4.5.2. Interest alignment

DGT and DGCE are the most significant echelon-one units under the Ministry of Finance. Their crucial task to collect tax revenues secures them immense influence within the Ministry's policy arena. Therefore, for TOC, being negotiable might be more beneficial to its recommendation implementation rather than being overly strict and force its intervention without regards to their interests.

This claim is confirmed since internal sources admitted that one of the possible causes of low implementation is misalignment between TOC's recommendation and DGT-DGCE's programs:

"They only accept and implement the ones that pose lower risks (to their revenue collecting function)." (Interview No. 2)

"(They only implement) The ones that are helpful to their causes (improving revenue collection)." (Interview No. 3)

To improve implementation level, TOC has been initiating annual meetings to communicate its programs and quarterly meetings to get their feedback over the past two years. Another objective of this meeting is so that DGT and DGCE can prepare their resources to implement TOC's recommendation.

"Some themes have been adjusted to fit their program. We need to align our program to match theirs. Therefore, we might as well help them, and the acceptability and implementation level would increase." (Interview No. 3)

As a result, there are currently some programs that are being done together by TOC and DGT-DGCE. However, there are also some who do not entirely agree with this alignment. They firmly believe that to perform effective supervision, TOC needs to hold a certain degree of independence by not entirely submitting to their counterparts' interests.

“Some of the themes may be coming as results of those meetings, but we are not their subordinate and have no obligation to accept all their requests. Thus, we believe it is crucial to stick to and keep carrying our programs.” (Interview No. 1)

“It does not mean that we would follow them 100%. Although we might use them to evaluate our program.” (Interview No. 4)

### ***4.5.3. Analysis***

#### **TOC's Impact**

Even though the sources agreed on TOC's positive impact, their compliments seemed like sour grapes. They were not consistent with the low implementation level shown in the monitoring reports. Moreover, they have yet to treat TOC's recommendation with utmost care and prioritise other supervisory units' recommendations. These stipulations, which are explained in the previous section, rebut the claim. However, the taxpayers' representative provides an interesting response. Given the lack of transparency in complaint handling process, the taxpayer still felt TOC gives out encouraging effect, by providing an alternative to solve their problems.

The fact that DGT and DGCE paid more attention to recommendations coming from taxpayers' complaints indicates that they have yet seen TOC's technostructural interventions as important. Furthermore, it is not unlikely that DGT's and DGCE's dismal response towards TOC's recommendation is provoked, again, by the tension between them, as proposed by Nystrom (1986) and Browne and Golembiewski (1974).

#### **Interest Alignment**

TOC's decision to initiate meetings with DGT and DGCE to tune their programs should be appreciated. This meeting should also be considered as TOC's attempt to improve coordination and reduce the tensions, which have always been stumbling rocks among bureaucracy who adapts New Public Management's Single Purpose Organization such as the Ministry of Finance of Indonesia. Moreover, this attempt is also in line with Serrano's (2007) first of four preconditions for tax ombudsman to perform effectively, that is to have the reliable persuasive ability.

# Chapter 5

## Conclusion and Recommendation

### 5.1. Conclusion

As a developing country, Indonesia depends on its tax revenue to sustain its development and stimulate the economy. Supposedly, the arduous task to collect taxes falls upon DGT and DGCE, two echelon-one units under the Ministry of Finance. To accomplish their mandates, both are bequeathed with immense authorities that are influential to the national economic climate. To balance their power, the Parliament saw the need of a committee to perform ombudsman roles and providing technostructural intervention to improve DGT and DGCE performance. TOC was established to play these roles. It is expected to check and balance these agencies by preventing abuse of power and ensuring that social justice is upheld while they collect taxes.

This research aims to qualitatively measure TOC's effectiveness in performing its tasks and functions. It utilises two qualitative research methods, the secondary data analysis and semi-structured in-depth interviews to answer five sub-questions that ultimately lead to the main research question.

The first sub-question queries the extent of TOC's independence and how it affects its influence. This research shows that TOC exhibits signs of pseudo-independence. Even though the regulation sanctions its independence, there exist a self-restraint attitude and a servitude manner among the Commissionaires, which are possibly caused by (1) non-transparent recruitment process, (2) lack of representativeness, (3) inability to castoff intervention from higher parties, and (4) incapability to ensure recommendation implementation.

The direct selection recruitment process reduced the opportunity for tax practitioners to sit as TOC Commissionaires. Retired personnel of DGT and DGCE currently occupies about 80% of the commissionaire seats. Moreover, with the remaining seat is assigned to an academic, there is no room for the taxpayers' representative. This lack of representativeness renders potential bias in TOC's decisions. It is claimed that TOC fails to perform impartially, with 80% of the decisions goes to the Government's way.

Furthermore, TOC's pseudo-independence is also indicated by the iterative interferences it suffered from higher positions. These interventions limited TOC's activities and prevented it from performing all-out. Lastly, the low implementation level shows that TOC does not have the power to seek compliance with its recommendations. This non-compliance is caused by several things, such as subpar output quality, untimely recommendation, unclear feedback mechanism, and inferior stature against other supervisory units.

In conclusion of the first sub-question, TOC has not been more independent than other structural units within the Ministry of Finance, and it deteriorates its ability to influence the tax authorities it supposes to oversee.

The next parameter is the extent of TOC's current organisational and institutional capacities. The analysis reports that TOC's current organisational capac-

ities hamper its efforts to perform effectively. The mutual adjustment coordination mechanism performed by TOC brings adverse consequences. The lack of codes of conduct and standard procedures generates discrimination, informalities, favouritism, uncertainties, and inconsistencies. Furthermore, it also exacerbates TOC's capability to coordinate with other supervisory units. Since there is no coordination mechanism established, TOC has not been able to collaborate with them. However, it is appreciable that an attempt to institute coordination with Inspectorate-General, KITSDA, and PUSKI has started, especially in complaint handling.

Likewise, the assessment of TOC's institutional capacities indicates that current legal provision is insufficient to encourage effective performance from TOC. Firstly, TOC needs to upgrade its complaint handling and mediation function into a full-pledged Alternative Dispute Resolution, which require adequate legal and administrative procedures. Secondly, to narrow the implementation gap, some sources advise making TOC's recommendation mandatory. Nonetheless, this approach might not be the best option since it could increase the tensions with DGT and DGCE and cost their future partnership.

The third determining factor is the resources available to TOC and how do they impact its effectiveness. Over the past few years, the Secretariat of TOC has been operating under an averagely 25% budget cut as a result of Secretariat-General's efficiency policy. This cut has reduced the quality of TOC's output, which might have contributed to the low implementation level. As a unit with specific requirements, the Secretariat needs to convince the Secretary-General that it should be exempted from such policy. Moreover, the Secretary-General, as one of TOC members, needs to contribute more by providing enough support to ensure TOC could perform its functions with adequacy.

Aside from financial resource, this research also discovered a couple of issues in human resources. To start with, since the employee coverage ratio is too low, the number of staffs the Secretariat needs to be doubled. This increase would boost Secretariat's capacity close to Inspectorate-General's, a unit whose activities similar to TOC. Nonetheless, the authority to add more staffs does not lie in the hands of TOC. The Secretariat could propose additional employees, but the final decision is taken by, again, the Secretary-General.

The other human resource issue is the management. To have competent officials, the Secretariat needs to establish a clear career path for the employees, including regular staff exchange with DGT and DGCE. This exchange would prove beneficial, as the transferred staff would bring their qualities and embedded skills to enrich the Secretariat's general knowledge. However, up until now, neither TOC nor the Secretariat was successful in instituting this exchange. The fact that Secretary-General, as the highest authority in Ministry of Finance human resource management, is an *ex-officio* member does not help this predicament.

The fourth sub question analyses how transparent TOC handles the publication and the extent of democratic control it allows. The findings confirm that currently, TOC has not allowed its recommendations go public. Three reasons have been expressed as the likely caused. First, the recommendations are kept off the public to avoid public scrutiny towards their quality. Secondly, with the pseudo-independence it operates under, it would prefer not to take any action that might pit it against the Minister, DGT, and DGCE. Lastly, it does not want

the taxpayers to use the recommendations as evidence against the government in any litigation process.

This policy shows a lack of accountability and might cause public distrust. Moreover, keeping recommendations closed-off might discourage democratic control over TOC and its counterparts. It also might cause TOC to lose valuable public support to increase its implementation rate.

The final sub-question advances with perceptions from relevant actors towards TOC. It also looks to find how TOC fares in the policy arena and secures other's collaboration. All actors, including DGT, DGCE, the taxpayer, and even the Minister's Expert Staffs, agree that TOC's presence has positive effects on tax administration. However, the evidence shows that their perception has not been congruent with the implementation level of TOC's recommendation. The only exception is the taxpayer, who remains upbeat about TOC's impact in handling complaints.

One encouraging finding is that TOC has been initiating meetings to align its programs with its counterpart's agenda. Even though they are not 100% aligned, this adjustment might secure DGT and DGCE cooperation in the long term. Therefore, the implementation gap could be reduced and thus, TOC's effectiveness would be improved.

Gottcher (2009:4) claimed that "ombudsmanry, is the rocket science in government". There are many types and characteristics adopted in various contexts. Each context commands specific parameters to define its effectiveness. Therefore, this research applies the measures taken from the theories of the ombudsman and practised among countries that best fit the context of Indonesian Taxation Oversight Committee.

All in all, this research has shown that TOC, who plays a role as a techno-structure with ombudsman functions has yet been able to provide influential and valued contributions to tax administration. The pseudo-independence performed, inadequate organisational and institutional capacities, reduced budget and ineffective human resource management, and a policy that discourages democratic control contribute to TOC's ineffectual performance. However, the positive perception from the taxpayers and the liaison officers and the initiative to align its interest with DGT's and DGCE's programs could be seen as encouraging attempt towards more influential and valued interventions.

## 5.2. Recommendations

As the closing remarks, this subsection discusses possible actions to alleviate TOC's problems and improve its effectiveness. The potential solutions would try to address each issue in TOC's independence, organisational and institutional capacities, resources, and democratic control.

First of all, to improve its independence, TOC's recruitment process needs a set of protocols to set the requirements, terms, and conditions of the commissionaire's selection and removal. In addition, the recruitment needs to be accessible not only to some particularly invited candidates but also to all qualified individuals, just like the first-period recruitment. Moreover, there needs to be an allocation for the taxpayer's representatives, to ensure a more democratic deci-



sion-making process. Hopefully, if the recruitment process is just and transparent, the Commissionaires would act more professionally and independently. Furthermore, they would be able to deter any intervention from higher offices without having to worry about getting removed from their position, as long as they work within the rules.

Furthermore, if the issue with TOC's independence is resolved, there would be a positive impact on democratic control development. With no string attached, TOC can be more transparent and accountable by publishing its work. Therefore, TOC would gain more public trust, and become a more credible organisation. Moreover, to prevent any lawsuit threat the Commissionaires are worrying about, TOC needs to add an immunity clause in its legal provision. With this clause, the Commissionaires and the Secretariat personnel could not be "prosecuted for acts performed under the law" (Gottelher 2009:5). However, since the authority to select and appoint TOC Commissionaires lies in the Minister's hands, the success of this recommendation will depend on the negotiation to convince the Minister to make these changes. It is also interesting to see whether she would be willing to relinquish some of her prerogatives and trade them with the benefits offered.

Secondly, to improve its performance, TOC needs to set standard operating procedures that enable standardised decision-making process so that it would treat all cases non-discriminately. Moreover, they also need to provide a clear division of labour among the Commissionaires. Each member would have specific roles and responsibilities that they can be held accountable for. Therefore, their performance and contribution could be optimised, including the *ex-officio* members. The Inspector-General needs to get more involved, and back TOC's efforts to coordinate their actions with other units and the Secretary-General needs to provide better support to solve TOC's financial and human resource issues.

Additionally, since TOC is a non-structural committee, there is no discipline mechanism applied. Therefore, TOC needs to ratify a set of codes and conduct to keep their integrity in check. Consequently, these procedures and codes of conduct need to be formulated by non-other than the Commissionaires themselves to ensure their commitment.

The final recommendation is about the additional rules, regulations, and authority needed to improve TOC's effectiveness. First, an appreciation is due to the ongoing attempts to coordinate TOC's actions with other units. However, this agreement needs to be ratified in an established rule, preferably in Minister of Finance regulation to ensure it is honoured. If this cooperation is established, these supervisory units could work together to produce joint-recommendations, which makes it easier for DGT and DGCE to implement them. In addition, TOC would have more impact since the joint-recommendation would more likely be implemented.

Secondly, to provide better and more thorough complaint handling service, TOC needs the legal provision and authority to become a full-pledged alternative dispute resolutions unit. By having well-established ADR function, TOC could see every complaint out and not leaving the final decision to DGT and DGCE. Moreover, ADR function provides faster and more affordable measure to settle disputes, compared to traditional litigation. It might reduce the work-load in the

tax court and, in the long run, it would create a more efficient tax litigation process.

Finally, to reduce the implementation gap, the option is to make TOC's recommendations mandatory. With this legal status change, there would be consequences for non-compliance for DGT and DGCE. However, to change the rules accordingly would be an arduous task. The negotiation would be tedious given the political nature of the arena. Moreover, this time-and-energy consuming process does not guarantee that the goal can be achieved.

Alternately, the recommendations can be kept as the way they are, unbinding and bring no consequences to non-compliance. However, this option would need TOC to be more proactive in with its recommendations. Just sit back and wait for DGT and DGCE to implement them without further deliberation is out of the question. Communication, both formal and informal, is crucial. Furthermore, the ongoing effort to coordinate and align TOC's programs with DGT and DGCE to be stepped up to enhance higher compatibility between them that would eventually increase the implementation level. Lastly, TOC needs to set monitoring procedures similar to the Inspectorate-General that allow DGT and DGCE to acquire feedback on the implementation process they are doing and enable TOC to monitor them better. This alternative, combined with the developed democratic control, might reduce the implementation gap, and render TOC to be more appreciated by DGT, DGCE, and the Minister. Nevertheless, further research is imperative to analyse which of both options would give the best result to reduce the implementation gap.

The problems faced by TOC are complicated ones. It would take prolonged deliberation and negotiation with the multiple actors involved in the policy arena to solve them. Therefore, because of the limited time and resources available, the recommendations offered in this research would need further and more profound studies to determine the details of the ideal recruitment process, proper publication arrangement, empowering procedures, and the new enabling authorities, rules, and regulations suitable to TOC context.

## References

- Asian Development Bank (2011) *Strengthening the Asian Ombudsman Association and the Ombudsman Institutions of Asia*, Asian Development Bank.
- Browne, P.J. and Golembiewski, R.T. (1974) 'The Line-Staff Concept Revisited: An Empirical Study of Organizational Images' in *Academy of Management Journal*, 17(3), pp.406-417.
- Christensen, T. and Læg Reid, P. (2006) 'The Whole-of-Government Approach – Regulation, Performance, And Public-Sector Reform', Stein Rokkan Centre For Social Studies Working Paper No. 6. Bergen: UNIFOB AS.
- Christensen, T. and Læg Reid, P. (2007) 'The Whole-of-Government Approach to Public Sector Reform', *Public Administration Review*, 67(6), pp.1059-1066.
- Conoboy, H.B. (1999) 'A Wrong Step in the Right Direction: The National Taxpayer Advocate and the 1998 IRS Restructuring and Reform Act', *Wm. & Mary L. Rev.* 41, p.1401.
- Fowle, F. (2008) 'A Blueprint for the Evaluation of an Ombudsman's Office: A Case Study of the ICANN Office of the Ombudsman', Doctoral dissertation. La Trobe University.
- Gadlin, H. (2000) 'The ombudsman: What's in a name?', *Negotiation Journal* 16(1), pp.37-48.
- General Taxation Regulation and Procedure Act 36 2007* (Indonesia).
- Golembiewski, R.T. (1980) 'Infusing Organizations with OD Values: Public-Sector Approaches to Structural Change', *Southern Review of Public Administration*, pp.269-302.
- Gottelrher, D.M. (2009) 'Fundamental Elements of an Effective Ombudsman Institution' in *World Conference of the International Ombudsman Institute*, pp. 2-17).
- Graham, J., Plumptre, T.W. and Amos, B. (2003) *Principles for good governance in the 21st century*. Ottawa: Institute on governance.
- Human Resource Bureau Ministry of Finance (2018) 'Ministry of Finance Employee Composition'. Accessed 20 October 2018. <<http://www.sdm.kemenkeu.go.id/>>.
- Inspectorate General Ministry of Finance (2018) 'Employee Composition Infographic'. Accessed 20 October 2018. <<http://www.itjen.kemenkeu.go.id/baca/481>>.
- Inspector-General of Taxation (n.d. a) 'Our Role'. Accessed 31 May 2018 <<http://igt.gov.au/about-us/our-role>>.
- Inspector-General of Taxation (n.d. b) 'Information Publication Scheme'. Accessed 31 May 2018 <<http://igt.gov.au/publications/information-publication-scheme>>.

- Inspector-General of Taxation (n.d. c) 'Making a Complaint'. Accessed 31 May 2018  
 <<http://igt.gov.au/making-a-complaint>>.
- Ministry of Finance, Republic of Indonesia (2008) 'Minister of Finance Regulation 54/PMK.09/2008 about Taxation Oversight Committee'. Accessed 31 May 2018.  
 <<http://www.sjdih.depkeu.go.id/fullText/2008/54~PMK.09~2008Per.htm>>.
- Ministry of Finance, Republic of Indonesia (2010) 'Minister of Finance Regulation 133/PMK.01/2010 about Organization and Governance of Secretariat of Taxation Oversight Committee'. Accessed 31 May 2018.  
 <<http://www.sjdih.depkeu.go.id/fullText/2010/133~PMK.01~2010Per.htm>>.
- Ministry of Finance, Republic of Indonesia (2015) 'Minister of Finance Regulation 234/PMK.01/2015 about Organization and Work Procedure Management in Ministry of Finance'. Accessed 17 September 2018.  
 <<http://www.jdih.kemenkeu.go.id/fullText/2015/234~PMK.01~2015Per.pdf>>.
- Ministry of Finance, Republic of Indonesia (2016) 'Minister of Finance Regulation 63/PMK.09/2016 about Amendment of Minister of Finance Regulation 54/2008 about Taxation Oversight Committee'. Accessed 31 May 2018.  
 <<http://enforcea.com/wp-content/uploads/2016/05/63-PMK.09-2016Per.pdf>>.
- Ministry of Finance, Republic of Indonesia (2017) 'Minister of Finance Decree 310/PMK.03/2017 about Explanation, Data, and Information Related to Directorate General of Taxation Provision for Taxation Oversight Committee'.
- Mintzberg, H. (1979) *The Structuring of Organizations: A Synthesis of the Research*. New Jersey.
- Nystrom, P.C. (1986) 'Comparing Beliefs of Line and Technostructure Managers' in *Academy of Management Journal*, 29(4), pp.812-819.
- O'Leary, Z. (2014) *The Essential Guide to Doing Your Research Project*. London: Sage Publications Ltd
- Polski, M.M. and Ostrom, E. (1999) *An Institutional Framework for Policy Analysis and Design*, Indiana. Indiana University.
- Public Information Transparency Act 14 2008 (Indonesia)*.
- Roness, P.G. (2017) 'Types of State Organizations: Arguments, Doctrines and Changes Beyond New Public Management'. *Transcending New Public Management* pp. 77-100. Routledge.
- Secretariat of Taxation Oversight Committee (2018) '2017 Annual Performance Report'. Jakarta, Secretariat of Taxation Oversight Committee, Ministry of Finance.

- Serrano, F. (2007) 'Taxpayer's Rights and the Role of the Tax Ombudsman: An Analysis from a Spanish and Comparative Law Perspective', *The Intertax* 35, pp. 331-340.
- Taxpayer Advocate Service (n.d.) 'Our History'. Accessed 5 June 2018 <<https://taxpayeradvocate.irs.gov/about/our-history>>.
- The Internal Revenue Service Restructuring and Reform Act 1998*
- The Office of Tax Ombud (n.d.) 'About Us'. Accessed 5 October 2018 <<http://www.taxombud.gov.za/AboutUs/Pages/default.aspx>>.
- The Office of Tax Ombud (n.d. b) 'Publication'. Accessed 5 October 2018 <<http://www.taxombud.gov.za/Publications/Pages/default.aspx>>.
- United Nations (2004) *The Global Programme Against Corruption UN Anti-Corruption Toolkit*, United Nations.
- Waseem, M. (2011) 'Independence of Ombudsmen', in *Strengthening the Asian Ombudsman Association and the Ombudsman Institutions of Asia*, Asian Development Bank, pp. 57-85.
- Wihantoro, Y., Lowe, A., Cooper, S. and Manochin, M. (2015) 'Bureaucratic Reform in Post-Asian Crisis Indonesia: The Directorate General of Tax', in *Critical Perspectives on Accounting* 31, pp.44-63.

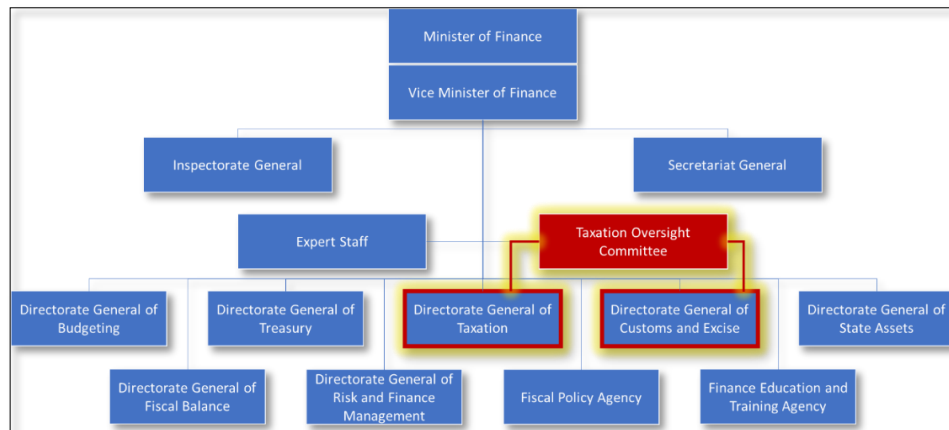
# Appendix 1

## Taxation Oversight Committee as Tax Ombudsman Unit

### Taxation Oversight Committee

Organisational wise, TOC is a non-structural committee which is independent and responsible to but not under direct commands from the Minister, with its primary function is to assist the Minister of Finance in overseeing the implementation of tax policies and administration. The scope of the duty of TOC is the tax authorities (DGT and DGCE). TOC's position within the Ministry of Finance organisational structure can be seen in the figure below.

Figure 8 Ministry of Finance's Organizational Chart

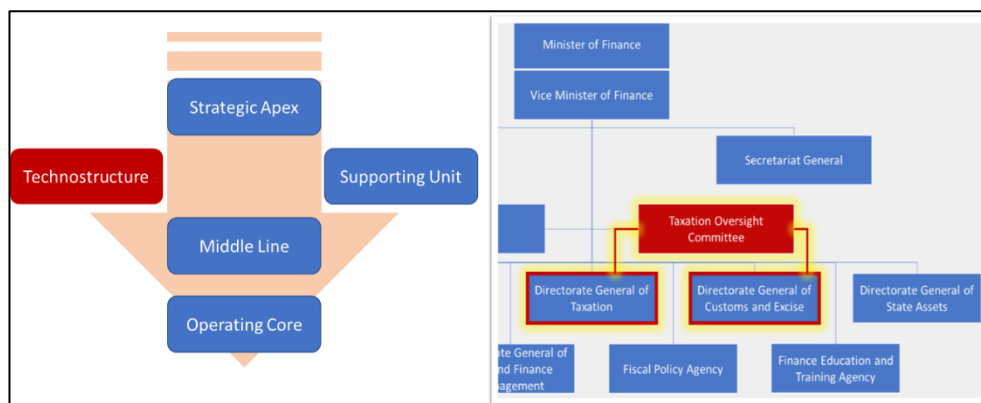


Source: MoF Reg. 234/PMK.01/2015

Even though the law has laid down the legal basis for its establishment in 2008 (MoF Reg. 54/PMK.09/2008), the TOC was only founded after the disclosure of numerous tax officer fraud cases in 2010. TOC bears the mandate of supporting the Minister in keeping DGT and DGCE from power abuse. The recommendations given are the results of in-depth studies, observations, and research on the systems, procedures, regulations, and policies, which are the types of interventions a technostructure provides. Moreover, the TOC also plays the tax ombudsman role and has the authority to receive and follow up complaints from the taxpayers and work together with DGT and DGCE to resolve them.

If we juxtapose Mintzberg's five elements of organisation from Chapter 2 and the organisational structure of the Ministry of Finance, we will get a clear image of TOC's role (Figure 9). The strategic apex is the Minister, assisted by the Vice Minister and the Expert Staff. The middle managers and operating cores are the director generals and their respective units. The supporting role is played by the Secretary-General, for infrastructure and resource support, and Inspector General for checked and balanced function. Finally, TOC holds the position of technostructure unit, whose roles have been explained above. It exerts its intervention towards its designated middle managers and operating core: DGT and DGCE.

Figure 9 Juxtaposition of Mintzberg's Organization's Element with Ministry of Finance Structure



Source: Self-prepared

On the ground, TOC's recommendations do not only encompass the operational matters such as procedural and technical issues but also on the strategic ones to assist DGT and DGCE in improving their performance and credibility, so they can collect tax revenues more effectively and efficiently without abusing their power and authority. This function distinguishes TOC with the Inspectorate General, an internal compliance unit whose job description is to make sure all divisions and personnel under the Ministry of Finance perform their job according to the procedures (Article 1065 MoF Reg 234/PMK.01/2015). TOC can review if the procedures or policies are unjust and have damaging effects on the economy and taxpayers. One of the former commissioners illustrated TOC as corporate's commissioner, who provides strategic inputs to improve the company's performance<sup>3</sup>. Additionally, TOC also receives and handles taxpayers' complaints, which varies from individual frauds, over-complicated procedures, to disputes of tax audit that cannot be settled by regular ways.

In performing its oversight function, TOC has the authority to (MoF Reg. 54/PMK.09/2008; MoF Reg. 63/PMK.09/2016):

- a. Ask for explanation, data, and information from tax authorities;
- b. Ask for explanation, data, and information from other relevant parties;
- c. Observe the implementation of tax policies and administration;
- d. Handle taxpayers' complaints;
- e. Mediate disputing parties;
- f. Research issues related to taxation;
- g. Provide public education related to taxation;
- h. Provide advice and recommendations related to tax policies and administration;
- i. Monitor and evaluate the follow up of the advice and recommendations issued.

TOC has seven members; two of them are the Secretary and the Inspector General of the Ministry of Finance as the ex-officio members. Four out of the rest five members should not be sitting in any position within any government organisations, and at least two of them must have knowledge and experience in

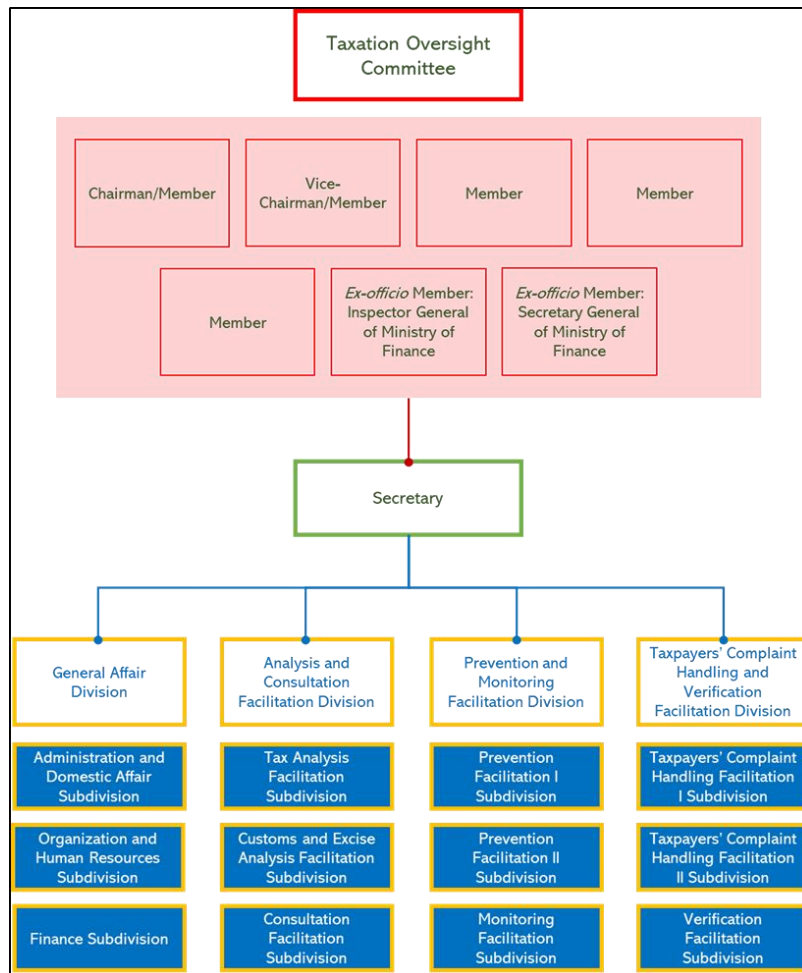
<sup>3</sup> Interview with Dr. A.A. Ritonga, Minister of Finance Experts Staff of Tax Supervision on 23 July 2018

tax, customs, and excise. As for the tenure, aside from the ex-officio members, the TOC members are appointed for a three-year period and are eligible to be reselected for another period (MoF Reg. 63/PMK.09/2016).

### Secretariat of Taxation Oversight Committee

In executing its tasks and performing its functions, TOC is assisted by a secretariat, which consists of four divisions providing both administrative and technical support. The administrative support is given by the General Affair Division, which provides budget, administration, and perform organisational and human resources management functions. The other three divisions perform the technical assistance for the TOC: Analysis and Consultation Facilitation Division, Prevention and Monitoring Facilitation Division, and Taxpayers' Complaint Handling and Verification Facilitation Division (MoF Reg. 133/PMK.01/2010). The overall structure of TOC and the Secretariat is shown in the figure below.

Figure 10 TOC and Secretariat Organizational Chart



Source: MoF Reg. 63/PMK.09/2016 and MoF Reg. 133/PMK.01/2010

The primary function of the Analysis and Consultation Facilitation Division is to carry research and studies on ways to improve existing systems. If the TOC approves the results, then they will be escalated as recommendations. The re-



search and studies encompass sets of activities starting from data and information gathering to the analysis process under TOC's guidance (MoF Reg. 133/PMK.01/2010).

The second core division is the Prevention and Monitoring Facilitation Division, whose primary task is to assess and evaluate the implementation of tax policies and administration. The output is feedback on policy implementation and what can be done to improve its effectiveness and efficiency (MoF Reg. 133/PMK.01/2010).

The final technical division performs tax ombudsman role. Likewise, its core function is to verify and handle taxpayers' complaints on how tax officials carry their job and to find feasible resolutions between disputing parties. In case of repeating complaints about specific substances, or complaints that represent strategic issues, further examination will be done, and they might be escalated to both the Minister and tax authorities. The taxpayers can file their complaints via various channels such as directly walk into the TOC, by mail, e-mail, hotlines, or TOC's website (MoF Reg. 133/PMK.01/2010).

The advice and recommendations given to the Minister of Finance and tax authorities are the end products of these three technical divisions. TOC needs to approve them and the process in which they are produced. The recommendations range from procedures, systems, policies, regulations, and complaint handling to improve legal tax system, which comprises a legal substance (tax regulation), legal structures (tax authorities), and legal culture (taxpayers' attitude and compliance) (Secretariat of TOC 2018).

## Appendix 2

### List of Interviewees

No	Names	Position/Perspective	Date of Interview
1.	M. Arief Setyawan	Secretary of TOC/Internal	16 July 2018
2.	Saifudin	Head of Taxpayer's Complaint Verification and Handling Facilitation Division (STOC)/Internal	17 July 2018
3.	Herry Setyawan	Head of Study and Analysis Facilitation Division (STOC)/Internal	19 July 2018
4.	Djoko Wiyono	Commissionaire of TOC/Internal	19 July 2018
5.	Sumihar Petrus Tambunan	Commissionaire of TOC/Internal	19 July 2018
6.	Muhammad Irwan	Head of Prevention and Monitoring Facilitation Division (STOC)/Internal	26 July 2018
7.	Gunadi	Chairman of TOC/Internal	26 July 2018
8.	Suherman Saleh	Chairman of Indonesian Public Tax Consultant Association/External	21 July 2018
9.	A. Anshari Ritonga	Minister of Finance Experts Staff of Taxation/External	23 July 2018
10.	Puspita Wulandari	Minister of Finance Experts Staff of Taxation Supervision/External	24 July 2018
11.	M. Agus Rofiudin	Director of Customs and Excise Information/External	27 July 2018
12.	Henrajaya	Head of Sub Directorate of Internal Investigation, DGT/ External	2 October 2018

*Source: Self-prepared*