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# social Justice

and rule of law

addressing the growth of  
a pluralist Indonesian democracy

Editors :  
Thomas J. Connors  
Frank Dhont  
Mason C. Hoadley  
Adam D. Tyson



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# SOCIAL JUSTICE AND RULE OF LAW: ADDRESSING THE GROWTH OF A PLURALIST INDONESIAN DEMOCRACY

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## Why the State Fails to Tackle Corruption: Ineffectiveness and Ambiguity of Responses

Budi Setiyono

Employing the kind of pun of which Indonesians are so fond, he continued: 'politics after all is not a profession (*profesi*), it is a meal (*porsi*), and everybody is busy getting the biggest possible share'. Consumption and corruption are closely linked throughout Indonesia, where 'eating' (*makan*) is a popular euphemism for corruption. 'The government's idea of work is to eat the people'... (Bubandt 2006: 426).

Soon after President Susilo Bambang Yudhoyono (SBY) was inaugurated by the MPR in October 2004, he declared that corruption eradication would be the first priority to be undertaken by his administration, and he promised directly to take charge in the battle against corruption. Previously, all Indonesian presidents subsequent to the *reformasi* era, from Habibie to Megawati, made more or less a similar promise. Combating corruption has always been a prominent public concern and heavily represented in

Indonesia's political rhetoric. Considering that corruption is a daily problem for every single person in Indonesia, slogans combating it are considered compulsory mantras for gaining political support and winning elections.

Moreover, domestic demand is not the only factor that induces presidents to promise corruption eradication. Requests for the government to adopt anti-corruption strategies also come from international agencies and foreign aid donors (Hamilton-Hart 2001: 66). Many of Indonesia's main donors such as the World Bank, United Nations agencies, the IMF and some bilateral donors have installed anti-corruption packages into their aid programs. The donors' request is not only directed to protect aid projects from the hazards of corruption, but also to secure international investments in Indonesia. In order to create a positive international impression, every president has responded to the donors by employing at least some anti-corruption rhetoric.

Yet, the presidents have not necessarily acted on their promises to address corruption. For example, less than a year after his inauguration, when his son was getting married on July 9<sup>th</sup>, 2005, President SBY threw a very luxurious wedding party by inviting thousands of guests, spending billion of rupiahs, and misusing the state property of the Bogor presidential palace as a party venue. In internet discussions, residents living near the palace reported that they saw a parade of many luxurious vehicles of guests, creating a massive traffic jam and disturbing Bogor city as long as the party lasted. Indeed, the party disgraced the president. Hundreds of university students organized a demonstration, condemning the President for misusing public property for his private benefit, and ridiculing him as a senseless culprit for having a luxurious party despite public poverty (*Bali Post*, 10/07/2005). For more than a month, the media suspected the President of misusing budget and public

facilities to finance the party. The bride and groom were also reported to have received a number of very expensive presents from bureaucrats, politicians and businesspeople suspected and convicted of corruption. The President denied the allegations by saying that all costs of his party were covered from his own pocket, promising that all luxurious presents would be returned to the benefactors, but no verification of this statement was provided by any institution. Some commentators in the media said that the party damaged the President's credibility in seriously fighting corruption (*Kompas*, 11/07/2005; *Tempo* *interaktif*, 10/07/2005).

This case is largely anecdotal, and relies on media reports. But it does illustrate typical power holders' behavior in the current Indonesian political situation. The anti-corruption promises and programs begin propitiously, but in practice they disappoint. Why has the commitment of various presidents to cleaning-up government been so weak when they need broad popular support for their political survival? The main reason for the failure is the absence of a working accountability system, making presidents subject to the risk of appearing inconsistent. In particular, the failure is a product of weak supervision from the judicial institutions and the parliament. In fact, the judicial institutions and the parliament are also heavily infected by corrupt practices. As will be discussed later, the judicial institutions even take advantage of corruption investigations for taking bribes, while parliamentary members use their supervisory power for gaining illicit kick backs and accordingly would not allow themselves to be targeted by anti-corruption measures.

The reason for the state's failure, however, is not only the ambiguous attitude of presidents. Even if they had a real intention to deal with corruption, their initiatives would have encountered a number of substantial obstacles. First of all, given the fact that the

transitional democratic cabinets are basically coalition governments, presidents have had limited capacity to impose their programs on their ministers and senior bureaucrats (Davidson, Juwono, and Timberman 2006: 1-2).<sup>1</sup> The ministers tend to serve their party's interests, which do not always favor the anti-corruption agenda. Secondly, taking into account that the potential risk is highest for political, economic and bureaucratic power-holders to suffer losses, all anti-corruption initiatives have had to compromise with both old and new vested interests (World Bank 2003c: 14). In other words, political compromise overrides the rule of law. Thirdly, with the transfer of more authority to regional governments, the central government has encountered difficulties in implementing anti-corruption measures in a more decentralized political structure (see for example, Djogo & Syam 2003).

This chapter analyses the ineffective and ambiguous responses and behavior of the state to the problem of corruption in Indonesia. It locates the ineffectiveness of state actions to stop the problem of corruption in the broader political context of democratic consolidation. The chapter thus highlights the key characteristics of the political environment in the battle against corruption during the democratic transition in Indonesia.

### Government Anti-corruption Initiatives

Corruption is a central political issue for Indonesian politics (see Table 1). Since the collapse of the Suharto regime and despite the reformulation of political institutions and the strengthening of formal accountability mechanisms, corruption persists in

<sup>1</sup> For example, Susilo Bambang Yudhoyono (SBY)'s administration in 2004-2009 was a product of a coalition between eight political parties. SBY's party, the Democrat Party, only had 10% of the seats in the national parliament. As the leader of a small party, SBY needs to serve the interests of his alliance partners in order to maintain political stability.

Indonesian (Davidson, Juwono & Timberman 2006: 14). This situation has forced the state, the executive branch in particular, to take initiatives –or be seen to take initiatives – to deal with the problem. The following section summarizes the corruption eradication measures taken during each Indonesian president's administration since the *reformasi* era.

Table 1: Corruption remains a problem: Indonesia's CPI records

	Authoritarian period				Democratic period											
	'95	'96	'97	'98	'99	'00	'01	'02	'03	'04	'05	'06	'07	'08	'09	'10
Score*	1.9	2.6	2.7	2.0	1.7	1.7	1.9	1.9	1.9	2.0	2.2	2.4	2.3	2.6	2.8	2.8
Rank	41/ 41	45/ 54	46/ 52	80/ 85	96/ 99	85/ 90	88/ 91	96/ 102	122/ 133	133/ 146	150/ 156	130/ 163	143/ 179	126/ 180	111/ 180	110/ 176

\* Note: "CPI (Corruption Perception Index) score indicates the degree of public sector corruption as perceived by business people and country analysts, and ranges between 10 (highly clean) and 0 (highly corrupt)" Source: Annual corruption perceptions surveys of Transparency International ([www.transparency.org](http://www.transparency.org)).

### *The Burhanuddin Jusuf Habibie Administration (1998-1999)*

During Habibie's presidency the government developed some important policies to address corruption, including:<sup>2</sup>

- removing government restrictions on the media. The liberation of the media enabled journalists to scrutinize the government and investigate any form of abuse of power;
- initiating a new anti-corruption law (no. 31/1999) that introduced tough penalties for corruption (up to 20 years in jail or up to Rp 1 billion in fines);

<sup>2</sup> In a broader context, despite some scandals during his administration, Habibie was admired by some commentators for undertaking a number of reforms that have been fundamental for Indonesia's democratic transition (see for example Bouchier 2000).

- discontinuing government intervention over the State Auditor Agency (BPK). With the BPK no longer subordinate to the government, it can release annual figures of its audits that show evidence of the scale of corruption and losses to the state budget.

#### *The Abdurrahman Wahid Administration (1999-2001)*

The anti-corruption policies during Wahid's administration included:

- removing restraints on civil associations and the press, including abolishing repressive bodies that were believed to have restrained civil organizations such as the Department of Information;
- issuing Presidential Decree (KEPPRES) no. 44/2000 on the establishment of the Commission of National Ombudsmen (KON). The institution, which consists of 11 elected commissioners, was authorized to monitor and scrutinize public complaints regarding the work of public institutions;
- forming the National Law Commission (KHN), represented by both government officials and civil society actors. The commission targeted the improvement of the court system by making some revisions in the judiciary. Under this reform, judges on the Supreme Court have to pass a fit and proper test screening from the DPR that examines their personal integrity and legal knowledge;
- improving the performance of commercial courts by appointing ad hoc judges from outside the regular judiciary system;
- establishing the Joint Team for Corruption Eradication

(TGPTPK) under the Attorney General Office to coordinate and manage the efforts for corruption eradication. As will be explained further in the following chapter, the Team was assigned to deal with sophisticated corruption cases that required a high degree of verification. To this end, the Team was formed comprising members from multi-sectoral backgrounds, representing the police, auditors, academics, prosecutors, Bank Indonesia officers and CSO activists,<sup>3</sup>

- issuing KEPPRES no. 18/2000 on the Procedure of Government Procurement. The Decree, which was then revised by Decree no. 80/2003, obliges transparency for the procurement process. This regulation stipulates that every such procurement should be conducted in a process of fair and transparent bidding;
- forming the Commission for Investigation of the Wealth

<sup>3</sup> The members of TGPTPK are as follows: Chairman: Adi Andojo Soetjipto (retired Supreme Justice), Vice Chairman: Tigor Pangaribuan (public prosecutor/AGO), Hendarman Supandji (public prosecutor/AGO), I Made Yasa (public prosecutor/AGO), Farchan Sunjoto (public prosecutor/AGO), Sr. Sup. Indarto (Police Officer), Sr. Sup. Fadjar Istijono (Police Officer), Sr. Sup. Murawi Effendi (Police Officer), Mohammad Hadijono (government officer/Financial and Development Supervisory Board—BPKP), Harditya Kadarisman (government officer/ Financial and Development Supervisory Board—BPKP), Muhammad Ali Tarmizi (government officer/Bank Indonesia), Suryohadi Djulianto (government officer/Dit. Gen. of Taxation), Nasiruddin Lubis (government officer/National Land Affairs Agency), Hamid Awaludin (government officer/University), P.B. Trenggono (government officer/Ministry of State Apparatus), Iskandar Sonhadji (civil society/Indonesian Corruption Watch--ICW), Faisal Tadjuddin (civil society/National Wealth Rescue Movement--Gempita), Hamid Chalid (civil society/Indonesian Society for Transparency—MTI), Agung Adiasa (civil society/Indonesian Accountants Association—IAI), Satjipto Rahardjo (academics/legal expert), Retnowulan Sutantio (civil society/retired Supreme Justice), M.H. Silaban (civil society/retired public prosecutor), H.S. Dillon (civil society/National Commission of Human Rights), Krissantono (civil society/researcher), Pradjoto (civil society/banking lawyer).

of State Officials (KPKPN). The commission was assigned to audit the assets of state officials, politicians and judges. The members of the commission included 31 persons that mainly represent political party and CSOs; and

- formulating Law no. 15/2002 on anti-money laundering.

Apart from these measures, President Wahid also appointed Baharudin Lopa, who was reputedly known as a clean prosecutor, to be the Minister of Legal Affairs and then Attorney General. Under Lopa's leadership and with support from TGPTPK, the attorney was successful in revealing some corruption cases and bringing some big corrupt actors to justice.

#### *The Megawati Sukarnoputri Administration (2001-2004)*

Similar to her predecessor, Megawati promised that combating corruption would be a priority of her presidential agenda and she attracted public attention when she gathered her family members a couple of days after the inauguration, asking them to not engage in any kind of KKN. Following her promise to eliminate KKN, Megawati initiated several policies, including:

- signing the establishment of the Centre for Financial Transactions Reporting and Analyses (PPATK), following the enactment of Law no. 15/2002 on Anti-Money Laundering during Wahid's administration. The institution was mainly assigned to track the flow of the money from any suspicious transaction and to investigate assets involved in corrupt activities;
- signing Law no. 30/2002 on Anti-Corruption, followed by the establishment of the Corruption Eradication Commission (KPK) and the Special Court for Corruption (SCC) on 27 December 2002;

- signing Law no. 22/2004 on Judicial Commission, followed by the formation of the Judicial Commission, which is assigned to oversee the performance of judges.

#### *The Susilo Bambang Yudhoyono (SBY) Administration (2004-present)*

During election campaigning for the 2004 presidential election, SBY declared that he would prioritize eradication of KKN and that he would handle anti-corruption actions with 'his own hands' (Tempointeraktif, 7/09/2004).<sup>4</sup> Following his promise, SBY's administration took a number of actions addressing corruption, such as:

- issuing Presidential Instruction (INPRES) no. 5/2004 on the Acceleration of Corruption Eradication, followed by the Declaration of a National Action Plan for Corruption Eradication;<sup>5</sup>
- issuing KEPPRES no. 17/2004 for the establishment of the National Police Commission (Kempolnas). The commission is assigned to supervise and monitor the performance of the police, and also recommends

<sup>4</sup> SBY's promise attracted Indonesian voters and he won more than 60% of the vote for the presidency in the 2004 and 2009 presidential elections. Corresponding to this issue, a survey of a Global Corruption Barometer conducted by Transparency International following the victory of SBY pointed out that 81% of its respondents believed that corruption will decrease 'a lot' or 'a little' over the next three years.

<sup>5</sup> The INPRES contains seven general instructions to all institutions and government officers, and special assignments to a number of Ministers. The general instructions require all state officials to: (1) immediately submit wealth reports to the KPK; (2) create performance criteria, including standardization, transparency on fees for services and licences, elimination of illegal fees, and create islands of integrity; (3) implement presidential decree no. 80/2003 on government procurement; (4) simplify governmental affairs and personal lifestyles; (5) provide maximum support to the prosecution of corruption cases by POLRI, Attorney General, and KPK; (6) cooperate with the KPK to administrative system may provoke or are susceptible to corruption; and (7) increase supervision in order to curb corruption.



candidates for Chief of Police to the president;

- issuing KEPPRES no. 18/2004 for the establishment of the Prosecutor Commission (Komisi Kejaksaan). The Commission is assigned to supervise and monitor the performance of public prosecutors;
- delivering special assignments to some Ministers to take anti-corruption actions, among others: (1) instructing the Head of Bappenas to prepare a National Action Plan for Corruption Eradication for 2004-2009; (2) requiring the Minister of Law and Human Rights to draft laws and other implementing regulations to combat corruption; (3) commanding the Attorney General and Chief of POLRI to maximize investigations and prosecutions of corruption, return corrupted state monies, and punish the abuse of power by their personnel; and (4) instructing the Minister of Education and State Minister for Communications and Information to develop anti-corruption curricula and education campaigns;
- issuing KEPPRES no. 11/2005 for creating an inter-agency 'Anti-Corruption Task Force Team' (*Timtas Tipikor*) in May 2005. The team has a special mandate to accelerate the investigation and prosecution of big corruption cases in governmental agencies including state-owned Enterprises (SOEs);
- signing the formulation of the Law of Witness Protection, which was then enacted by the DPR in 18 July 2006. The enactment of the law was aimed at encouraging the witnesses of a crime freely to furnish testimony concerning a criminal deed that they saw and or experienced without taking into account any threat on their lives. The law completed the set of comprehensive

regulations for the government to combat corruption.

### Why didn't government initiatives work?

Although many policies have been issued by the current (and all previous) governments, collectively they are not very effective and have made little improvement in dealing with corruption. This section explains why.

### Presidents' lack of commitment

In analyzing the myths and realities of governance and corruption, Kaufmann (2005) points out that in many new democratic countries, whilst corruption eradication in general has become the most prominent issue articulated by the people, it does not always turn into a serious concern for the government to uphold 'accountability. Rather, the issue is frequently raised merely as political rhetoric to gain public sympathy or even as a political instrument with which to attack competitors. Similarly, Klitgaard (1988: 4) maintains, 'Sometimes anti-corruption efforts are pursued only half-heartedly... anti-corruption efforts themselves become corrupt efforts to vilify or imprison the opposition...' Since serving only as politically expedient ways to react to the pressure to 'do something' about corruption, the anti-corruption initiatives usually appear to have little impact (Kaufmann 2005: 88). In short, while government policies to combat corruption appear to be unadulterated and assertive, they have been inconsistent and half-hearted at best.

As in other countries, presidents of the newly democratic Indonesia tend to be inconsistent in dealing with corruption. In fact,

although presidents articulate the importance of corruption eradication, all of them have faced allegations of their involvement in corruption cases or engagement in corrupt behavior. Each president has become entangled in scandalous practices that have undermined much of the anti-corruption agendas that they initiated.

President Habibie, for instance, despite proposing some anti-corruption programs, recorded a disgraceful case which came to be called the 'Bank Bali scandal.' Although the scandal may or may not have directly involved the President, it did definitely involve a number of his aides. The scandal originated from a pressing claims agreement between Satya Novanto, director of PT. EGP (Era Giat Prima) and the Bank Bali in 1999, which contained some suspicious arrangements.<sup>6</sup> Some analysts speculated that the deal was manipulated by Habibie's patrons for taking illegal gains. The media reported that the disbursement that had been received by PT. EGP passed to a number of people close to Habibie's inner circle. It was rumored the funds were collected for the purpose of financing Habibie's campaign for the 1999 presidential election. Habibie did

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<sup>6</sup> At the time, Bank Bali ordered PT. EGP to recover Bank Bali's claims on several banks, namely BTA (Bank Tiara Asia), BDNI (Bank Dagang Negara Indonesia), and BUN (Bank Umum Nasional). However, since the banks have been liquidated by Indonesia's Central Bank, all of the claims were taken over by BPPN (The Indonesian Bank Restructuring Agency). Accordingly, PT. EGP had to recover the credits from BPPN, which were worth up to Rp. 904 billion. The agreement between PT. EGP and Bank Bali was judged by many to raise suspicions. First, a question arose concerning why the credits had to be retrieved through a third party (PT. EGP), while essentially Bank Bali could retrieve its credits directly from the BPPN. The position of the PT. EGP as a third party was considered unnecessary since the BPPN intended to release the credits. Secondly, while the agreement seemed a pure economic transaction, some believed that it was politically motivated. Satya Novanto was a vice treasurer of Golkar and known to be close to Habibie's circle. Finally, the commission that has been paid to PT. EGP was considered too high. The company received around Rp. 546 billion (almost 60% of the total amount of the credits).

nothing to clarify or investigate this scandal.

Although having a reformist reputation, Abdurrahman Wahid's attempts to combat corruption were also undermined by his record of providing unclear explanations on the Bulog and the Brunei scandal.<sup>7</sup> Although the allegations were denied by the President, testimonies from witnesses to a DPR committee gave the President no place to escape (Kompas, 29/11/2000). In addition, President Wahid was also embarrassed by the appointment of his brother, Hasyim Wahid, for a position as a debt collector to BPPN (The Indonesian Bank Restructuring Agency, IBRA) without the proper procedure. The appointment provoked criticism since the President did not make the appointment accessible to the public for about five months, which led to the resignation of Hasyim Wahid from his position (Gatra, 11/10/2000).

As noted above, President Megawati made very promising actions to combat corruption in the early stages of her presidency. In the last episode of her presidency, however, Megawati also suffered from criticism related to her family's business interests. In fact, the patterns of the way Megawati's family business operated were reported as being identical to the patterns maintained by the former President Suharto (Aditjondro 2001).<sup>8</sup> Student demonstrators called the President 'Megawati Suhartoputri,' or daughter of Suharto,

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<sup>6</sup> The Bulog scandal refers to a peculiar transfer of Rp 35 billion from a foundation associated with Bulog – the state logistics agency, to those who are suspected to be the Wahid's close associates, while the Brunei scandal refers to the allegation that Gus Dur received an emergency aid fund from the Sultan of Brunei in his capacity of a president but he used the fund for private purposes (Hamilton-Hart 2001: 74; Hadiwinata: 2003: 260).

<sup>7</sup> The Bulog scandal refers to a peculiar transfer of Rp 35 billion from a foundation associated with Bulog – the state logistics agency, to those who are suspected to be the Wahid's close associates, while the Brunei scandal refers to the allegation that Gus Dur received an emergency aid fund from the Sultan of Brunei in his capacity of a president but he used the fund for private purposes (Hamilton-Hart 2001: 74; Hadiwinata: 2003: 260).

accusing the President of failing to carry out reforms to combat KKN and of making no change since the former President's autocratic rule ended in 1998 (*BBC News*, 23/07/2002). Within her own party, Megawati also faced opposition regarding her policy in dealing with KKN. Three PDI-P assembly members resigned to protest her policy and behavior in the second year of her presidency. Mochtar Buchori, a PDI-P member of parliament and former adviser to Megawati described her as 'authoritarian and aloof', similar to the way he used to describe President Suharto (*BBC News*, 23/07/2002).

Like his predecessors, SBY's actions to combat corruption also have been damaged by a number of allegations of rotten behavior and policies that contradict corruption eradication efforts. Currently, in 2010 the President is also under serious allegation of being involved in the 'Bank Century scandal'<sup>9</sup>, a situation that is roughly similar to the 'Bank Bali'<sup>10</sup> and the Bank Lippo scandal'.<sup>11</sup> Also, during his presidency SBY has been considered too soft in dealing with corruption suspects and those who have been found guilty. The most controversial issue in this respect is the decision to discontinue the investigation of corruption cases involving seven foundations

<sup>9</sup> These included for example, privileged consideration on government licences and projects, profitable distribution and supply transactions with state-owned enterprises, and also acquisitions of state assets and companies under BPPN (Koran Tempo, 18/01/2002; Sriwijaya Post, 03/08/2003; Pontianak Post, 04/11/2003). Megawati's husband, Taufiq Kemas, for example, despite being free from any concrete charges, was reported to be involved in a wide range of government projects tainted with corruption, including the \$2.3 billion Jakarta Outer Ring Road (JORR) project, the \$2.4 billion double-track railway project from Merak West Java to Banyuwangi of East Java, the \$23 billion trans-Kalimantan highway, and the \$1.7 billion trans-Papua highway (*Asia Times*, 17/08/2002). Taufiq also benefited from being appointed as a 'government envoy' in charge of foreign investment projects, which attracted intense public criticism. In terms of declared wealth, Megawati's family was reported among the richest of the political elite. Their wealth claimed up to Rp 59.8 billion (\$5.98 million) in a mandatory declaration of wealth to the Audit Commission on State Officials' Wealth in April 2001 (*Asia Times*, 17/08/2002).

belonging to former President Suharto. Although the government stated that the termination was purely 'humanitarian' based, allegations continue that the President has political and economical deals with Suharto family members (*Jakarta Post*, 12/04/2006). Further, SBY's actions have been criticized for over-emphasizing investigation and prosecution, without resolute implementation. Although a number of cases have been resolved by the court, some of the convictions were not executed for a long period. For instance, as ICW (2006) pointed out, in 2006 at least 46 cases were resolved by the Supreme Court but not executed by the Attorney General.<sup>13</sup> Some ongoing investigations also show little progress. Ironically, during the SBY presidency a number of suspects and those convicted of corruption escaped punishment (ICW 2006).<sup>14</sup> Finally, the

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The scandal that is also known as 'Centurygate' was a takeover of Bank Century by the Deposit Insurance Agency (LPS) and a series of massive injections of state funds into it proceeding, totalling Rp 6.7 trillion (\$700 million) after the Bank was declared insolvent by the Financial Sector Stability Committee (KSSK), which was led by Finance Minister Sri Mulyani and included then BI Governor now vice president Boediono. Suspicion revolves around the massive drain on state funds involved, and also whether some depositors had preferential treatment or access to their funds after the bailout money had been injected, and whether some of the money was diverted and embezzled for SBY's presidential campaign.

<sup>10</sup> The 'Bank Bali scandal' originated from a pressing claims agreement between Satya Novanto, director of PT. EGP (Era Giat Prima) and the Bank Bali in 1999, which contained some suspicious arrangements. Some analysts speculated that the deal was the manipulation by some people for taking illegal gains. The media reported that the disbursement that had been received by PT. EGP passed to a number of people close to Habibie's inner circle. It was rumoured the funds were collected for the purpose of financing Habibie's campaign for the 1999 presidential election.

<sup>11</sup> The 'Bank Lippo scandal' refers to a case when PDIP party was reported to receive Rp 500 billion from the Lippo Group. Public rumour pointed out that the motivation for giving donations was to obtain protection from the PDIP that won the election in 1999 and would govern the country against efforts to expose crimes related to the group in the past (*Tekad*, 30/08/1999).

<sup>12</sup> The decision was made under Attorney General's decision to issue a letter of termination on prosecution (Surat Ketetapan Penghentian Penuntutan Perkara) no. 01/0.1.14/Ft.1/05/2006 on 11 May 2006, for the reason that Suharto has a permanent illness.

president is also considered to promote 'informal settlements' in resolving corruption cases, which may potentially make anti-corruption laws redundant (Kompas, 28/12/2007).

Overall, no president has lived up to their stated anti-corruption policies. On the one hand, they have tended to show prompt and severe responses to corruption in order to make a good public impression.<sup>15</sup> On the other hand, their behavior contradicts the policies they initiated. As will be discussed later, they also tended to be lenient with the 'fat cats' who have strong political and economic power in order to get financial support or avoid political retaliation. Unavoidably, this approach has led to the public impression that the presidents have been selective in treating corruption cases and drive an anti-corruption agenda mainly for political interests rather than for upholding accountability (TII 2006).<sup>16</sup> It is not surprising, therefore, that Indonesian public opinion toward the governments' approach to dealing with corruption fluctuates between hope and cynicism (Davidson, Juwono & Timberman 2006: 15).

<sup>13</sup> The cases include the case of 33 members of DPRD of West Sumatera province, the case of 10 former members of DPRD of Cirebon city, both for the alleged of misuse of regional government budgets for self-enrichment, and 3 former board members of APHI (Indonesian Forestry Association) for the alleged of misuse of reforestation funds. According to ICW, for more than 1 year, those cases were not executed by the Attorney General and no clear explanation has been given.

<sup>14</sup> According to ICW's records, at least ten convicted of corruption fled in 2006/2007, including the director of Texmaco group Marimutu Sinivasan who fled to Singapore on 15 March 2006. He has been prosecuted for embezzling Rp 20 billion of credit on Bank Muamalat. Similarly, the former director of State Oil Company Pertamina, Tabrani Ismail, convicted for six years imprisonment on 26 April 2006, also fled on 15 September 2006 before the prosecutors could execute the punishment.

<sup>15</sup> For example, as shown in appendix 6, the attempt to bring Suharto to justice represents the ambivalence of all presidents in handling corruption. They generally take action only when public pressure is strong and the political risk is small.

## Political parties' illicit gains

Many believe that the inconsistency of presidents in dealing with corruption also relates to the fact that all political parties, from which the presidents gain their political affiliation, are financially hungry and prone to exploiting public funds. The increasing competition among political parties following democratization has made their operations financially demanding.<sup>17</sup> Since political parties generally have not developed any independent financial capacity,<sup>18</sup> the high cost of political competition makes it necessary for the parties to find external sources of revenue by exploiting legislative and executive institutions, and selling the nominations for public office to affluent non-party figures, as well as positioning SOEs as cash cows through taking advantage of weak accountability mechanisms (Cole 2001: 16; Mietzner 2007). Each political party wants to dominate strategic positions in the new political landscape in order to make it possible to steal public money. Many politicians, both in the executive or legislature, have often at once acted as both

<sup>16</sup> This is visible, for example, in the case of corruption of KPU members where all the suspects, Daan Dimara, Mulyana Kusumah, and Nazaruddin Syamsuddin were instantly executed soon after the issuance of the court verdict; yet in the cases of corruption of BLBI gate and some strong political leaders, the execution is usually slow (ICW 2008: 19).

<sup>17</sup> As international experience proves, democratisation increases political competition, and provides incentives for political groups and individuals to attain or preserve power. The competition eventually encourages political elites to take illegal revenue and evade official channels in pursuit of their goals (Moran 2001: 379-393).

<sup>18</sup> It is important to note that Indonesian political parties mostly represent the interest of political elites, and do not have traditions to organise dues from memberships. For example, Golkar was dominated by Suharto as his political machine, Indonesia Democratic Party Struggle (PDIP) was established and dominated by Megawati, National Mandate Party (PAN) by Amien Rais, National Awakening Party (PKB) by Gus Dur, Moon and Crescent Party (PBB) by Yusril Ihza Mahendra, Democrat Party (PD) by Susilo Bambang Yudhoyono, Hanura Party by General Wiranto and Gerindra by General Prabowo Subianto.

'broker' and 'bloodsucker' in their position, taking illicit kickbacks from the procurement of goods and public services in order to cash in for their parties' benefits. Speaking about the characteristics of political parties in the Indonesian democratic transition, Robison & Hadiz (2004: 228) maintain that:

...most of these parties are not 'natural' political entities, carrying out 'aggregating' and 'articulating' functions, but constitute tactical alliances that variously draw on the same pool of predatory interests. Notwithstanding certain ideological schisms within and between parties, their function has primarily been to act as a vehicle to contest access to the spoils of state power.

Such situations make checks and balances between competing parties difficult to function. When making errors, rulers in an ideal democratic setting should be subjects of correction from opposition or parties that are not in power. Such a kind of arrangement, however, has not taken place during the democratic transition in Indonesia. With the possible exception of the conservative Justice and Welfare Party (PKS), all political parties in Indonesia are corrupt so government attempts to combat corruption have the risk of endangering their own party. Similarly, opposition parties do not seriously want to push the government to tackle corruption, since such attempts may damage their own political interests. In other words, the competing groups direct their competition more towards the capture of the state and its resources for political redistribution than to policies that benefit the people generally (Sebastian & Williams 2002: 50). As noted earlier, Golkar for example, could not escape from the allegation of corruption in the

Bank Bali scandal. No Golkar officials tried to legally refute the allegations. However, the scandal turned into a political issue for attacking political opponents rather than an opportunity to uphold accountability and the rule of law. The scandal was used by PDIP – the strongest Golkar competitor in the 1999 elections – to attack Golkar.<sup>19</sup> After the 1999 election, however, PDIP discontinued its enquiry into the case. Some speculated that this happened because PDIP was involved in a similar scandal, the 'Lippo Bank scandal' (Tekad 30/08/1999). The party was reported to have received Rp 500 billion from the Lippo Group. Public rumor pointed out that the motivation for giving donations was to obtain protection from the political party that won the election and would govern the country against efforts to expose crimes related to the group in the past (Tekad, 30/08/1999). Not surprisingly, PDIP did not exhibit a willingness to continue the inquiry into the Bank Bali scandal as other political parties have requested a similar investigation into the Lippo Bank scandal.

In addition, all parties tend to rely on the donations of individual conglomerates and companies in return for favorable policies. While several conglomerates and business persons were involved with criminal corruption, especially during the New Order era, all political parties maintained good relations in order to obtain the necessary financial assistance. Although regulations on party financing exist, violations without punishment have been a very common practice (Hadiwinata 2006: 106).<sup>20</sup>

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<sup>19</sup> This relates to the political situation at the time, when the rivalry between Golkar against PDIP and its supporters was intensifying. For PDIP, the disclosure of the Bank Bali scandal was a golden opportunity for attacking the reputation of Golkar and its presidential candidate (Habibie). PDIP gained a political benefit when they damaged Habibie's credibility before the presidential election in MPR assembly in

The implication of the reciprocal dependency between conglomerates and political parties is clear: presidents often handle corruption by taking a soft and informal approach, especially against cases that involved benefactors (or prospective benefactors) of the governments' party. Presidents or their inner-circle are used to being criticized for dining with suspects of corruption to discuss their cases, rather than using tight law enforcement to resolve the cases. In other instances, governments make benevolent policies to protect their business partners from legal punishment. This is shown, for example, in the relationship between President Abdurrahman Wahid with people accused of involvement in corruption. As the media reported, the President met Tommy Suharto soon after Suharto's son had been sentenced to jail. Despite his denial, one of Tommy's lawyers confirmed that in early October 2000 the President met secretly with Tommy for 'family purposes' (Republika, 31/11/2000; Tempointeraktif, 30/11/2000). But many people believed they met to discuss the possibility of clemency for Tommy in exchange for confiscation of some Suharto family assets (Hamilton-Hart 2001: 76).

In a more or less similar vein, President Megawati made policies that favored the perpetrators of BLBI. Megawati created INPRES no. 8/2002 on the Release and Discharge to exempt BLBI

<sup>20</sup> To take an example, Tekad tabloid (30/08/1999) reported that in 1999 PDIP received donations from a number of top conglomerates, including Salim group for Rp 100 billion, Mercu Buana Rp 50 billion, Barito Group 50 billion, Gudang Garam Rp 50 billion and Jarum Kudus Rp 50 billion. The party also received billions of donations from a number of individuals known to be involved in the BLBI case, including Sudono Salim, Mochtar Riady, Anthony Salim, Prayogo Pangestu, James T. Riady and two children of former President Suharto, Tutut and Sigit. If correct, these donations are clearly a violation, because according to the law, donations to parties should be at most Rp 15 million from individuals and at most Rp 150 million from groups. If proven, the PDIP should be disqualified, and of course the results of the 1999 election annulled. However, no action has been taken to clarify this report.

creditors from legal claims to restore the money if they cooperated and returned their debt. Because of the INPRES, the Attorney General in some instances terminated investigation of outstanding debtors considered 'cooperative'.

President SBY followed the same pattern, issuing a Minister of Finance Decree no. 151/KMK.01/2006. Based on these regulations, Attorney General Abdul revoked the BLBI cases with the reason that it was in the public interest. In addition, on 6 February 2006 SBY received three outstanding debtors of BLBI in his office, which later on generated much public criticism.<sup>21</sup> In the meeting at the Presidential Palace, the outstanding debtors stated they were willing to restore their debt in the BLBI case that was valued at hundreds of billions of rupiah, as long as they were free from any legal claim. Their efforts were futile, because on 17 March 2006 the government issued a policy that eventually relieved from legal prosecution the recipient of eight outstanding BLBI debtors (including the debtors who came to the palace) if they paid off all their debts by the end of 2006.

### The weakness of judicial institutions

Apart from problems of the executive branch, the ineffectiveness of the state's attempts to combat corruption has also been caused by the weakness of judicial institutions. Besides their

<sup>21</sup> At the time, the three BLBI outstanding debtors, namely James Januardi-owner of Bank Lautan Berlian Ulung Bursa, Lukman Astanto - owner of Bank Namura, and Atang Latief - representative of shareholders in Bank Bira, were reported to visit the palace accompanied two senior police officers (Chief Deputy of National Police Detective and Deputy Director of Economic Crime) who logically should have arrested them (Detiknews, 13/02/2006).

lack of independence, the judicial institutions are also corrupt and constrained by poor capacity and resources.

Judicial institutions frequently do not maintain an independent attitude in dealing with corruption and allowing intervention by the executive branch, especially by the president. Owing to the interest in protecting their business clients, presidents have intervened in the judicial system when the judiciary wanted to tackle corruption cases committed by their patrons. Such intervention is possible, since despite the amendments to the constitution granting greater independence to the judiciary, it still allows for considerable government influence (Lindsey 2002a: 280-1). President Abdurrahman Wahid, for example, once ordered the attorney general to suspend the progress of legal proceedings against three heavily indebted tycoons on the BLBI case: Marimutu Sinivasan, Prajogo Pangestu and Syamsul Nursalim. Legal action against them was to proceed only if they failed to repay their debts to the government within eight years (*Jakarta Post*, 27/10/2000).

President SBY also made a similar intervention when on 12 May 2006 his government decided to stop prosecutors from proceeding with legal action against seven of Suharto's foundations.<sup>22</sup> The Coordinating Minister of Law and Defense announced that the decision made was based on humanitarian considerations, since Suharto was regarded as permanently ill (*Suara Pembaruan*, 12/05/2006). The government requested the Attorney General issue a Letter of Prosecution Suspension (SKP3) which ensured that the seven cases of corruption in the foundations would not be sent to trial.

<sup>22</sup> Namely the Dakab foundation, Dharmais foundation, Dana Sejahtera Mandiri foundation, Trikora foundation, Amal Bhakti Muslim Pancasila foundation, Gotong Royong Kemanusiaan foundation, and Supersemar foundation.

For several reasons, the judicial system itself has not become a reliable or coherent instrument for fighting corruption (Hamilton-Hart 2001: 76). First, the legal system still remains subject to serious allegations concerning the 'court mafia', a term referring to illicit arrangements between police, lawyers, prosecutors, and judges to generate benefits from any legal case. There are several cases which indicate that the 'court mafia' operates strongly in the Indonesian judicial system. For example, on 3 January 2006 a court clerk of South Jakarta district court was arrested by the Anti-Corruption Task Force Team (Timtas Tipikor) for extorting a witness of corruption on the PT Jamsostek case,<sup>23</sup> which was still under trial in the district court. The clerk was caught red-handed when he asked for Rp 200 million in exchange for reducing the possible punishment. In the investigation, he stated that he had been ordered by a judge handling the case (*Sinar Harapan*, 21/01/2006).<sup>24</sup> Moreover, anecdotal evidence and testimonies from corruption case suspects suggest that during corruption investigations, police and prosecutor tended to treat them as an 'ATM (automatic teller machine)' that has

<sup>23</sup> PT. Jamsostek is a state owned enterprise (SOE) that possesses monopoly rights for controlling workers' insurance funds. It is widely known that the company maintains an opaque management for the interests of its bosses and is a 'cash cow' for government officials and politicians (*Tempo*, 11/01/2006). Despite many allegations concerning possible corruption in the company, only a few instances have been revealed and prosecuted. One of the prominent cases was corruption in the Medium Term Notes (MTN) whereby the SOE invested its funds on Bank Global in May-June 2003. It was revealed in court that apparently there was manipulation of the feasibility assessment of the investment that led to a state loss of Rp. 311.085 billion (*Sinar Harapan*, 19/04/2006). The case has incriminated the General Director Ahmad Djunaidi and the Investment Director Andy Rachman Alamsyah. Both were sentenced to eight years jail by the South Jakarta District Court in April 2006.

<sup>24</sup> In April 2006 the public was shocked at seeing a corruption suspect throw a shoe at his prosecutors in court. He apparently had been disappointed by the prosecutors since despite a bribe of Rp 600 million paid to the prosecutors, they still prosecuted him severely. In addition, a prosecutor who was appointed to handle the BLBI case admitted in March 2008 to taking bribes; he was seized by KPK when receiving a bribe of \$600,000 from someone who was purportedly the crony of one of those convicted in the BLBI case (*Kompas*, 03/03/2008).

to provide cash for the officers in exchange for easing punishment.

Secondly, despite democratization and freedom of the press, the judicial agencies maintain secrecy regarding the progress of cases. Police and prosecutors in particular have been very conscientious in disallowing the public to access information on corruption cases. The lack of transparency on the progress of cases has raised public allegations that the agencies cooperate illicitly with suspects of corruption for underhanded deals. In line with this, and despite the huge number of reports of corruption from the people to the judicial institutions, many cases are either not tackled or intentionally delayed; and of the few cases being tackled, even fewer are brought to court and concluded.<sup>25</sup> The problem becomes even worse when it is realized that there are so many alleged escapees that cannot be recaptured. Transparency International Indonesia (TII) acrimoniously criticized the Law Agencies by saying that the agencies were far less nimble than journalists who could interview the fugitive corruption figures in 'live' TV programs (TII 2006:1).

Thirdly, sound coordination between law enforcement agencies is simply scarce. This is shown by the circular process of corruption investigations in which 'many cases had to go to-and-from the police, then to attorneys and vice versa' (ICW 2008: 18). This weak coordination refers not only to handling of corruption

<sup>25</sup> In 2006 for example, although corruption cases that were reported by CSO elements may reach hundreds, only 124 cases that could be examined and sentenced, and even sadly, from this number, as many as 39 cases with 116 defendants (31.4%) freed by the court and only 85 cases (68.5%) eventually led to conviction (ICW 2006). Even more, the penalties for cases of corruption that eventually were stated as guilty were considered by many commentators as being too soft and not providing a strong enough deterrent effect for corrupt figures. Most of the cases (37 cases or 29.8%) carried sentences of under 2 years imprisonment, 32 cases (25.8%) sentences between 2 to 5 years jail, and 16 cases (12.9%) sentences of over 5 years (ICW 2006).

programs in the battle against corruption. Legal agencies have not shown a sincere effort to develop a common platform or conduct regular meetings to coordinate their actions. Rather, they often blame on the legal system as the causal factor. On one occasion Attorney-General MA Rahman, for example, stated that the poor coordination on corruption eradication among law institutions was due to some defects in Indonesia's Criminal Code (KUHAP). According to him, the code contains significant faults in the framework and procedure of law enforcement, mainly in terms of segmentation of law agencies that leads to a lack of synergy in handling corruption cases (Sinar Harapan, 11/10/2004).

The poor judicial function is also due to limited resources including budgets, capable employees, and equipment (see Police Predicament below). Not surprisingly, there is a general suspicion that the judicial officers exercise investigations of corruption cases to fill their pockets. They treat law as a commodity trade, which is sold for as much as possible for the interests of individuals and law enforcement institutions. While the public and the media are actively campaigning against corruption, the prosecutors and judges take advantage of the campaign by utilizing the law for private benefit (Palmier 2006:156).

#### Police predicaments

The poor performance of the police, according to the World Bank (2003a: 85):

'It is estimated that the government budget only covers around 30% of actual expenditure on the police. The police force needs to search for the rest of the budget from a variety of extra budget revenue, including business operations, contributions from the private sector, "operational



cooperation,” grants and police-run foundations. This begins with new entrants to the police force who must “buy” their positions. As with other positions in government, this continues throughout a police officer's career, with training, promotions, and transfers, particularly to “wet” or “dry” positions (referring to the opportunities such positions confer on the individual for corruption) and training all subject to internal levies. There are few hard facts and figures on the extent to which different off budget categories contribute to the police budget, and therefore, it is difficult to estimate the total cost of police operations. It is safe to assume that the police itself do not know. The police's business operations are an increasing source of concern. There is significant anecdotal evidence, ranging from the buying of influence, extortion and benefits from the rigid handling of crime procedures, to direct involvement in crimes’.

### Lack of parliamentary supervision

The state's failure to combat corruption is also due to the parliament's lack of supervision. Despite possessing significant power in the new political configuration noted in the previous chapter, the Indonesian parliament has not been able to effectively hold the government to account. In fact, the possession of discretionary power often simply means an opportunity for committing abuses. Since monitoring from their constituents is generally still weak, many DPR members dare to use their discretionary power as a tool of crime; they received bribery in exchange of decision that favors the bribers.

Not surprisingly, the DPR has frequently become an object of public ridicule concerning their policies and behavior that did not satisfy the people in dealing with corruption. Many parliamentary members have even been suspected of being involved in corruption scandals, a situation which street demonstrators and comedians use to mockingly refer to the DPR with acronyms such as '*Dewan Perampok Rakyat*' (People Robbers Council), '*Dewan Pengkhianat Rakyat*' (People Traitor's Council) and '*Dewan Pecinta Rupiah*' (Rupiah Lover's Council).

Given the fact that so many members of the DPR were arrested by the KPK, as noted in the previous chapter, anti-corruption measures are often opposed by the legislature.<sup>26</sup> The law makers in the DPR also attempted to complicate the procedure of prosecution against the DPR and regional council (DPRD) members suspected of being involved in corruption. For example, they set up 'immunity rights for elected officials at the national and local level' when they formulated several laws.<sup>27</sup> Under these laws, an attempt to investigate elected officials required approval from the President for DPR members and Governors, from the Ministry of Home Affairs for Regents/Mayors and DPRD members.

Moreover, following the fall of the New Order government, all political parties in Indonesia have tended to seek a share in the spoils of executive office, and have failed to develop a distinction between the parties that support and oppose the government (Eldridge 2005:

<sup>26</sup> For example, the 'Working Committee on the Law Enforcement and Regional Government' protested against legal process of members of the DPR and DPRD suspected of being involved in corruption. In a recommendation presented in the DPR session on 03 October 2006, the committee pointed out that the legal process was an effort to criminalise politicians and asked the President to rehabilitate the 'good name' of parliament members and protect the rights of those suspected of corruption (Suara Merdeka, 04/10/2006).

<sup>27</sup> Such as Law no. 4/1999 (revised by Law 22/2003) on the Structure and Position of members of MPR, DPR, and DPRD, as well as Law no. 22/1999 (revised by Law 32/2004) on Decentralisation.

155). This is not surprising since, other than Golkar, political parties have never had the opportunity to hold power. So, being the ruling party is a common dream for every political party. Against this backdrop, political coalitions tend to be formed on the basis of deals for attaining power rather than on ideologies for implementing policy. The coalitions accordingly change from time to time, which makes it more difficult for the public to distinguish the positions of political parties on the corruption issue (World Bank 2007: 57). Besides, prosecution of national MPs can upset unstable coalitions within the DPR, potentially creating blockages in the decision-making process and causing major problems for governments. This is apparent, for example, in the case of the corruption allegation against Golkar leader Akbar Tandjung, which involved an ambiguous resolution.

#### Constraints on the KPK

From a theoretical framework, the existence of extra supervisory institutions such as the Anti-corruption Commission is crucial to ensure the accountability of public institutions and officials and prevent them from transgressing the rule of law (UNDP 2005).

Indeed, the establishment of the Corruption Eradication Commission (KPK) on 27 December 2002 marked a significant step for Indonesia in combating corruption. The organization has been given significant powers and has a relatively well-selected independent board of commissioners.<sup>28</sup> The KPK holds a number of relatively effective investigative authorities such as to conduct

<sup>28</sup> The members of KPK are selected through a mechanism that brings about checks and balances between the executive and legislative. The process begins with nomination of 10 candidates by a committee formed by the President. Then the DPR selects 5 out of the 10 candidates following a 'fit and proper test'. The President then ratifies and inaugurates the selected commissioners.

wiretapping and recording, to forbid accused persons to travel overseas, and to order banks and other institutions to submit financial statements of someone under investigation.<sup>29</sup> The KPK even has the right to take over the investigation and prosecution of corruption cases from the police and the prosecutor that took place prior to the establishment of the KPK.<sup>30</sup> Enhanced by the creation of the Special Court for Corruption (SCC), the KPK has been somewhat successful in convicting senior government officials at the national and local levels. In short, the establishment of KPK has not only renewed the anti-corruption effort, but also given confidence to the public in a more promising battle against corruption (Widjoyanto 2006: xvii).

Given that KPK has just been newly established, however, its capacity is still limited to deal with the rampant corruption during democratization era. So far, it has been reported that KPK has been able to conclude less than only 5% of cases reported to the agency (Koran Sindo, 05/01/2008). The large proportion of corruption cases have not been handled, especially those involving military and

<sup>29</sup> Article 12 of Law 30/2002 on KPK maintains that: (1) When carrying duty of investigation, examination, and prosecution as determined by article 6 point c, KPK has authorities: (a) to tap and record conversations; (b) to order any authorized institution to ban someone from travelling to overseas; (c) to request financial statement from banks or other institutions concerning suspects under investigation; (d) to order bank or other financial institutions for blocking any bank account that allegedly have a link with suspects or other related persons; (e) to order the supervisor of suspects for temporarily dismissing the suspects from his/her job; (f) to request data of suspects' wealth and taxation from any institution; (g) to suspend any financial transaction, trade, license, and concession belong to corruption suspects; (h) to request Interpol and other State agencies for hunting and detaining suspects.

<sup>30</sup> Article 68 of Law 30/2002 on the KPK maintains that 'all the process of investigations, examinations, and prosecutions of corruption criminal acts that have not been finalized on the time of the establishment of KPK could be taken over by KPK'.

judiciary personnel. The limited performance of KPK can also be proven by the results of its work that have only recovered losses to the country's cash to Rp 50.04 billion, while the budget expenses of the commission in 2004-2006 was around Rp 247.68 billion (Antaranews, 01/08/2007). Under such conditions, KPK was considered to have failed by some observers in running the magnitude of the mission.

An evaluation of the Commission in 2004-2007 conducted by ICW (2008), found that the performance of KPK is undermined by a number of limitations. Firstly, KPK tends to be too bureaucratic and takes a long time to respond and provide feedback to reports of corruption allegations. Secondly, KPK has never processed reports of corruption cases that were allegedly committed by prosecutors and police. This is not a surprise, because the two commissioners of KPK represent the police and prosecutor institutions, making them psychologically unable to 'irritate' their own institutions and counterparts. In addition, KPK has been proven unable to supervise and follow up to take over cases from the police and prosecutors. Thirdly, the KPK database is insufficient to cover the massive records of public officials. Fourthly, KPK tends to prioritize their handling of cases that attract public attention, while cases that do not impact on the popularity of KPK are less prioritized. Fifthly, while KPK's investigators generally seem still to underperform, yet there is no visible effort to improve their capacity. Sixthly, accessibility is weak, due to its office being positioned in Jakarta; thus the KPK is unable to effectively reach local cases. Although this conclusion may need further examination, the findings are agreed upon by many CSO activists. In a workshop paper on the evaluation of anti-corruption movements, a CSO activist pointed out anecdotal evidence concerning the general impression that KPK's performance is unsatisfactory. The view of CSOs thus roughly meets the ICW's

findings. The activist, further, underlined that there is a general impression among CSO activists that 'entering the KPK office is more like submitting a cooperation proposal rather than being greeted as mutual partner' whereby KPK often puts the onus on reporters of corruption to provide proof rather than trying to discover more evidence (Sinlaeloe 2007: 5).

### Concluding comments

This chapter has illustrated that Indonesian state agencies are generally characterized by deficiencies that prevent them from effectively restraining corruption. Simply speaking, each branch of the government, whether executive, judicative or legislative, is tainted by the practice of corruption. Whatever policy, strategy or method they employ does not produce any substantial outcome. What is produced is a state of ambiguity, with formal accountability mechanisms only working in appearance. Charges of corruption are made, but these charges tend to be used as political ammunition rather than for genuine law enforcement. As a consequence, anti-corruption initiatives have produced disappointing results; overall, the state has been ineffective to overcome the problem.

There is no panacea for improving these circumstances in a short time, because corrupt elites exist at every branch of the government. Given that the elites are reluctant to uphold genuine accountability and serious anti-corruption measures which may endanger their interests, it is likely that corruption will continue for a long period. Only with outside pressure will the elites become judicious in directing their power and authority. As such, the bottom up demand for accountability of the government needs to be approached vigilantly.

The question is, who can improve the situation? Assistance

and pressure from the international community may play a significant role. But their actions and effects are limited. Ultimately, it is only the civil society in Indonesia that can make a substantial difference in dealing with corruption. It is important to note that many cases have gone to trial and some powerful political figures have been convicted. This outcome, however, is not the exclusive achievement of the state. As will be explained in more detail in next chapter, most of these convictions have been made after significant contributions from CSOs. For genuine democratization driven by the people, efforts to combat corruption should be a bottom-up rather than a top-down process. Civil society actors in Indonesia have indeed stepped forward to combat corruption and work as catalysts for accelerating democratization, both by encouraging checks and balances between state institutions as well as by mobilizing and educating people to pursue their rights and obligations in holding the elite to account.

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# social justice

and rule of law

addressing the growth of  
a pluralist Indonesian democracy

Indonesia in the 21st century faces tremendous opportunities as well as challenges. Having made significant progress in its transition to a genuinely democratic system in the past 13 years, this fourth most populous country in the world, Indonesia must continue to address its great diversity, avoiding the many pitfalls that lay ahead. Social justice and the rule of law are critical issues that demand the attention of policymakers and intellectuals, all those with an interest in building a prosperous and confident nation ready to take its place as an important power in the world.

The 3rd Yale Indonesia Forum Conference, held in Diponegoro University, July 2010, addressed a variety of critical issues and points of contention related to social justice and the rule of law.

This book is the result of the efforts of all participants and contributors, critiquing past errors and pointing optimistically to the future.

This collection of papers demonstrates that cooperation and critical engagement between citizens and the democratically elected governmental structures of Indonesia are necessary to address the future challenges of social justice and the rule of law.



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