

Does Governance Reform in a Democratic Transition Country Reduce the Risk of Corruption? Evidence from Indonesia

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Submission date: 24-Jul-2019 12:11PM (UTC+0700)

Submission ID: 1154551834

File name: C16_TURNITIN.pdf (1.6M)

Word count: 8534

Character count: 48417

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Chapter 11

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not an automatic mechanism. Instead, imprudent process of governance reform may create a fertile ground for the spread of corruption.

Keywords: Governance reform, democratic transition, democratization, corruption.

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Indonesia suffers from a very poor international reputation regarding corruption, ranking near the bottom alongside the most corrupt countries in the world. It is also perceived as doing worse over time in controlling corruption. Indonesians agree. They liken corruption to a 'disease to combat, denouncing every known case'. While these perceptions may be overly influenced by the new openness of a democratic Indonesia, corruption is high and imposes severe social and economic costs. It also contributes to citizens' loss of trust in governments (World Bank, 2003b: 1).

For the last decade, Indonesia has been sympathetically admired by commentators for its smooth democratization and the reconstruction of governance arrangements following the end of the authoritarian regime. In conjunction with the transformation of the political rules of the game, the governance reform following the democratization process has reformulated formal accountability systems and caused a major transformation in the political landscape. The reform has enabled citizens to enjoy a free liberal environment while fully receiving the rights of speech and association that are guaranteed by law. Regular free and fair elections have been conducted for the third time, electing the President, members of the House of Regional Representatives (*Dewan Perwakilan Daerah/DPD*) and the Parliament (*Dewan Perwakilan Rakyat/DPR*). Media restriction was revoked, enabling them to play an important role in scrutinizing governmental and political affairs. Also, power has been significantly redistributed: a number of new independent institutions (currently there are about 40 semi-governmental institutions) have been formed for exercising different sets of power; also, Indonesia has carried out a broad decentralization process where provincial and district/city governments are receiving a number of responsibilities for the provision of public services. In addition, the military has been removed from the political arena and no longer engages, at least in formal regulations, in business activities. In sum, as the World Bank (2003b) maintains, Indonesia has been able to construct basic institutions for a strong, functioning democracy.

When it comes to the corruption issue, however, the extraordinary process of democratization and governance reform seems to have had no effect. Despite the success story of many reform accomplishments, Indonesia continuously performs poorly in dealing with the problem. After 10 years of exercising governance reform, Indonesia is still ranked close to the bottom of the most corrupt countries in the world, according to Transparency International's CPI (Corruption Perceptions Index). The index score has not been far above the score that was achieved during the authoritarian era.

In the practical context, the appearance of corrupt acts can still be easily observed at almost all government buildings, especially places where any public service is carried out. The story of government officials maintaining red-tape bureaucratic procedures in order to attract bribes, the collusion between government officials and businessmen to capture public resources, the conspiracy of judicial authorities to take illicit profits from court cases, and the way politicians exercise power to grab public budget resources remain constant topics of public conversations and media reports. Owing to systematic corruption, the quality of public services remains extremely poor. Devolution and decentralization of power only benefits the elites and the new power holders. Each year, the State Auditing Agency (BPK) keeps finding a huge number of irregularities in almost every government branch. In short, corruption has not only become endemic in contemporary Indonesian politics, but also, borrowing the words of anti-corruption activist Saldi Isra (*Media Indonesia*, 18/03/2003), it is turning into 'a new ideology' where everyone seems born to be corrupt. Given the fact that the current corruption problem is worse than during Suharto's era, it is not an exaggeration to say that corruption is an imminent and 'a significant threat to a successful political and economic transition for Indonesia' (World Bank, 2003b: 17).

This chapter seeks to describe the process of democratization in Indonesia, and the governance reform agenda following this democratization. The chapter also discusses the persistence of corruption in the new democratic environment. It argues that governance reform has not been able to develop an effective accountability mechanism and, accordingly, is not sufficient to stop corruption; on the contrary, it complicates and diversifies the problem. Similar to authoritarian actors, the new power holders

tend to utilize their political discretion as a commodity, one to be sold in exchange for illicit kickbacks.

Indonesia's Path to Democratization

Scholars explain the process of democratization differently. However, as maintained by Hara (2001: 308), they generally argue that the process is divided into four stages: the collapse of a previous authoritarian regime, transition, consolidation, and the maturing of democracy. The process usually begins with the collapse of an authoritarian regime due to strong pressure from the people and possibly the international community. Then it is followed by a transition where the regime is replaced by a more democratic government through free and fair elections. In the next stage, democracy is consolidated when democratic values have been widely accepted as the only way to organize political life in the country. Finally, a mature democracy is achieved when political practice fully conforms to democratic traditions. An ideal situation at this stage requires two reciprocal requirements: on the one hand, all democratic institutions should function according to their mandates and deliver services that meet public demands; on the other hand, citizens should be able and have opportunities to fully participate in any governmental process.

In Indonesia, regime change started with tensions based on broad public criticism in 1995, prominently led by Amien Rais, the chair of *Muhammadiyah*, against the practice of corruption committed by Suharto's circle and his government officials. During this time, along with the growth of an independent press, public criticism was fuelled by the news of corruption scandals and the unscrupulous behavior of Suharto's clique. The public generally had been disgusted by the practice of a monopolistic economy in the hands of an iron triangle: Suharto's family,ⁱ Chinese tycoonsⁱⁱ and military generals.ⁱⁱⁱ Amien Rais called for the end of KKN (collusion, corruption, and nepotism) in government administration.

Public despondency also corresponded to the fact that Suharto had been in power for a long period. Suharto took power from a civilian government following a bloody coup in 1965: he was inaugurated as a temporary President in 1966 and then full President in 1967. He maintained an effective authoritarian regime by using three pillars of power: military,

bureaucracy, and conglomerates. By manipulating elections, Suharto was repeatedly elected President in 1973, 1978, 1983, 1988, 1993, and 1998. The durability of Suharto's regime was ensured by his remarkable political skill to control subordinates by distributing patronage and manipulating conflict between them (Aspinall, 2005: 26). Holding power for almost 32 years, the public considered that Suharto was too old and incapable of sustaining his presidency. Some people called him *Pak Tua* (Mr. Elder) as he was sixty-six years old when he was re-elected president in March 1998.^{iv}

Another precondition for the democratization process was an incident on 27 July 1996. This affair was a physical attack on Megawati Sukarnoputri's Indonesian Democratic Party (*Partai Demokrasi Indonesia*, PDI) office by elements of the PDI with support from the Indonesian army.^v Following the attack, the resistance of Megawati's supporters created riots in Jakarta and other cities, leading to nationwide action and contributing to the rise of the people power movement to end Suharto's regime. Later on, the supporters of Megawati transformed themselves into a new political party named *Partai Demokrasi Indonesia Perjuangan* (PDIP) and won the first democratic election after the end of Suharto dictatorship.

In mid-1997 strong momentum for commencing democratization emerged due to an economic crisis that broke out in the middle of the year. The crisis, which stimulated the decline of Indonesian currency (Rupiah) from around 2,000 to the US dollar to over 15,000 and caused the rising price of daily basic needs, created conditions for the birth of 'people power' and a call for the resignation of President Suharto. In May 1997, a general election was conducted, followed by the formation of the People's Consultative Assembly (MPR). Despite strong public pressure to abandon Suharto, the MPR re-elected Suharto for another five-year term. Suharto was installed in the presidency on March 1998 and formed a cabinet that consisted of his close circle.^{vi} The continuity of economic crisis and nepotism in the cabinet created strong public opposition to the MPR's decision to elect Suharto. Aware that the government was unable to control the deteriorating economy and KKN, people became angry and openly demanded the resignation of Suharto. In early 1998, pioneered by university students, demonstrations started to break out in every major city demanding Suharto step down.^{vii}

Pressure from the people forced Suharto to hand-over his power to his deputy, BJ Habibie, on 21 May 1998. The immediate years following the

collapse of Soeharto were marked by efforts to unwrap the old regime, including curbing Suharto's KKN, bringing former President Soeharto and his equally corrupt cronies to court, making constitutional amendments, discontinuing the dual-function of the Army and Police, and granting autonomy to regional districts.

Under strong public pressure, Habibie's administration recorded a number of policies that fitted with public demands. He released political prisoners like academic Sri Bintang Pamungkas and labour activist Muchtar Pakpahan. He also ended restrictions on the media by removing regulations that provided authority for the government to license and control the media. Under Habibie's initiatives, Indonesia for the first time carried out what the World Bank (2003a) called a 'big bang' decentralisation process. Habibie also promised to conduct a general election to refresh the authority of government. For this initiative, Habibie's government launched a new regulation that allowed political parties to freely participate in the general election (Hadiwinata, 2003: 79).

The first internationally recognized free and fair elections for the parliament after the Suharto era was held on 7 June 1999 to elect 450 members of DPR.^{viii} As mentioned above, Megawati's PDIP won the election by gaining 153 out of 450 seats in parliament. However, because of the indirect electoral system, whereby the MPR selects the president, the winner of the parliamentary election does not necessarily win the presidential seat. The presidency went to Abdurrahman Wahid, more commonly known as Gus Dur, who successfully assembled the votes of parliamentary members from the Golkar and Islamic parties. Megawati was consigned to the position of vice-president. Gus Dur, however, only stayed in power for less than two years. Still stimulated by the anti-corruption spirit, the public was discontented with corruption cases that were allegedly committed during Gus Dur's presidency, which popularly became known as *Bulog-gate* and *Brunei-gate*.^{ix} On 29 January 2001, thousands of people conducted a mass demonstration to put pressure on the MPR to expel Gus Dur from the presidential palace. Following strong public pressure, Wahid was then dismissed by the MPR and replaced by Megawati Soekarnoputri on 23 July 2001.

Despite some positive achievements,^x Megawati's administration was marked by threats of separatism, economic instability, domestic terrorism,

and her unimpressive performance. She was repeatedly criticized by commentators for her habit of taking a nap during working hours while Indonesian people were struggling with conflicts and economic deterioration. President Megawati also had close bonds with military generals on many sensitive issues, creating rumors of the possibility of a resurgence of the military force in the political arena. Weakened by her party's disintegration, the popularity of Megawati dropped from her top position during the early days after the fall of Suharto. In October 2004, Indonesia, for the first time, conducted direct general elections to elect a president and parliament members. Megawati was defeated by Susilo Bambang Yudhoyono who became the first president to be elected directly.

Governance Reform Following Democratization

Strengthening the formal accountability system by reducing excessive government control became the central theme for governance reform during the democratic transition process in Indonesia. This is not surprising, because for over 30 years the regime effectively maintained a bureaucracy, military and police force, as well as a legal system that served the ruling elite rather than the people. The regime also did not give much power to regional government, positioning them merely as the agent of the central government. By oppression and manipulation, the government tightly controlled elections and political parties, thus representation in the parliament did not have substantial meaning because there was no real choice at the ballot box (see for example Heryanto, 1996). Combined with ignorance of formal procedures and favoring informal personal relations, excessive government control created the growth of systemic corruption (see King, 2000; Schwarz, 2000).

Governance reform has been undertaken aiming to tackle this disarray. It has brought about a series of fundamental changes in Indonesia's social, political, and economic landscape, which previously was mismanaged by Suharto. With assistance, and occasionally pressure, from donors, international agencies and CSOs, Indonesia's new democratic regimes have undertaken, at least formally, a number of reform programs for practising good governance principles. Anti-corruption, in particular, turns out to be the most important issue for driving the reform. The following is the

general description of the reform process to the extent that it relates to corruption eradication.

Constitutional Amendments for a Democratic Framework

In order to install the necessary requirements for the operation of a democratic system and fortify the accountability of the government, the Indonesian constitution has been repeatedly amended by the MPR. Amendments include strengthening the position of the parliament (DPR) by asserting that DPR members shall be elected by general elections,^{xi} providing the institution with full legislative powers and the ability to call the government to account^{xii} and impeach the president.^{xiii} Further in 2000, amendments were made to emphasize the importance of decentralization,^{xiv} recognize the importance of human rights,^{xv} and make a clear distinction between defense and security forces.^{xvi} Finally, amendments also covered a wide range of reforms in the system and institutional relations of governance. They include the modification of presidential and vice-presidential election system,^{xvii} reconstruction of the MPR structure,^{xviii} and the establishment of 'an independent central bank'.^{xix}

The End of the Military's Role in Business and Politics

The long extensive military role in Indonesian politics and business since the 1950s has meant that the military has been implicated strongly in much of the systemic corruption (see Muna, 2002; Crouch, 1986). Under military reform, the engagement of the military in politics and business has now been formally terminated. Although not complete, important steps have been taken to realize this goal. The repositioning of the military has involved removing the customary dual function (as 'political' and 'armed' forces) of Suharto's era. Part of the military reform also includes the reduction of the military's influence in formal politics, by reducing its membership in parliament from 20% to 10% in 1999. All military representation in legislatures was ended in 2004. Additionally, the military (and the police) have been set in a neutral position in elections, abandoning

traditional support for Golkar. As well as the reposition, the military also have been forced to open their activities to audit, and are disbanded from business activities. Under law 34/2004, the armed forces were required to surrender all their commercial enterprises to the government within five years (Palmier, 2006: 158). Despite refusals from conservative groups within the armed forces, some measures have been taken to ensure that their businesses be incorporated into the state's own enterprises and government's budget. In order to facilitate the transfer of military business, on 16 April 2008, the government formed a team responsible to carry out the transformation. The team was ordered to conclude the transformation by 16 October 2009 (*Republika*, 28/04/2008).

Privatization and Economic Liberalization

During Suharto's government, State Owned Enterprises (SOEs) were known as 'cashcows' for financing the regime and enriching government officials. By considering that the lessening role of the state in the economy can both improve performance and reduce corruption, Indonesian democratic government, under IMF (International Monetary Fund) policy prescriptions, started to privatize some SOEs in 1999. All the post-1998 presidents shared a common view that privatization was necessary and made numerous announcements about restructuring programmes and plans for privatization. During the first decade of democratization, around 10 to 15 SOEs were lined up for privatization annually. Based on IMF consultation, the government typically undertook privatization in the sectors of telecommunication, mining, cement, air and sea ports, toll road, steel, plantation, fertilizer, surveyor, and pharmaceutical business (Habir, Sebastian, and Williams 2002).

Devolution of Power: The Establishment of Independent Governance Agencies

In order to reduce the concentration of power within the government, one of the most significant reforms was that Indonesia undertook devolution of power through the establishment of independent institutions to exercise governmental functions that previously rested under state

authority. Typically, the institutions were formed under regulation, and their members attained their position through selection processes in the executive and legislative body. Members of the institutions are usually representatives of CSOs, professional groups, and sometimes the government. So far, Indonesia has established around 46 transitional and extra-government institutions, which are relatively independent from the government.^{xx}

Returning Sovereignty to the People: Citizens' Rights and General Elections

Along with the amendment of its constitution, Indonesia also abolished laws that contravened civil rights and created new laws considered necessary to protect the rights of citizens. The new laws, driven by the spirit of liberalization from state domination, generally express the absolute right of citizens to live without tight government restrictions. This condition stimulated the mushrooming of various organizations, representing all sections of society.

1 For strengthening the sovereignty of the people, laws on elections have been made to make sure that the people have the right to choose their political leaders. Since 1999 the election system had been administered by a number of different laws. Besides granting the people freedom of association, the regulations^{xxi} also provide the opportunity for scrutinizing closely every candidate running for elections. The laws position political parties as the central players in a new political system landscape, and allow the people to freely establish parties to attain political office. These conditions have created the incentive for people to form parties, leading to a flourishing of hundreds of new political parties over the last 10 years.^{xxii} The laws also stipulate a direct election system for electing the president and vice president,^{xxiii} multimember constituencies for electing DPD members,^{xxiv} and the open list system of proportional representation for electing DPR/D members.^{xxv} Moreover, these new regulations also enable the execution of relatively free and fair competition among candidates and political parties. The elections are now organized by an autonomous General Election Commission (KPU) that is independent from government intervention.

Regional Decentralization

In the same spirit of implementing democratic principles, as well as to tackle the threat of national disintegration, Indonesia introduced a decentralization policy in 1999.^{xxvi} This policy resulted in a massive transfer of power from central to regional government, making Indonesia from 'one of the most centralized systems in the world into one of the most decentralized' (World Bank, 2003a:1). The decentralization regulations (Laws 22/1999, revised by law 32/2004) provide the provinces, districts and cities with new powers previously held by the national government. Regional governments are now responsible for planning, financing and implementing policies in major sectors of social and political life.^{xxvii} The regulations also provide the regional councils (DPRD) with more powers to supervise and control the regional administrations.

The Unresolved Problem of Corruption

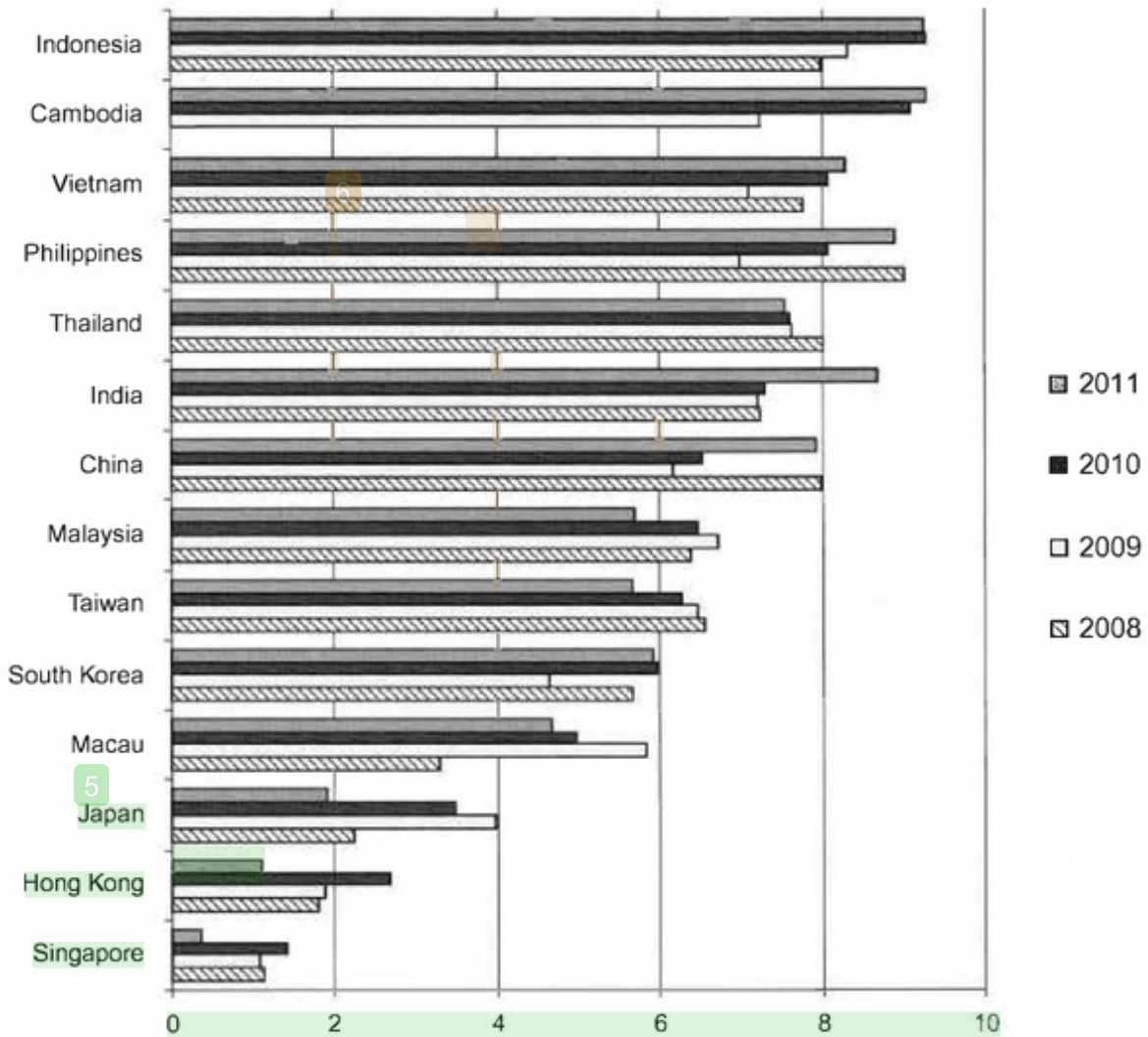
Despite the achievements in formulating basic democratic institutions and attempts to strengthen the accountability frameworks described above, Indonesia's governance situation is still unable to deal with corruption. As Hornick (2001: 9) maintains, there is much anecdotal evidence indicating that corruption in the post-Suharto era continues to be ubiquitous — despite a formidable array of legislation prohibiting it, and notwithstanding several successful and celebrated prosecutions of corrupt officials. Although a number of reforms have tackled certain parts of the problem of corruption, the failures are evident; many signs indicate that corruption is still widespread, has become systemic, and is ingrained in the power and social structure of the country (Widjojanto, 2006: vii). Overall, accountability systems remain extremely weak, making government officials still relatively 'untouchable'.

In fact, patterns of corruption during the Suharto regime continue during democratic transition. The way power holders sell decrees and legislation to the corporate sector, the way the bureaucrats pursue illicit kickbacks for procurements, and the way judicial officers utilize legal process for bribery are still prevalent (Rais, 2008). This can be seen, for example, in the case of BLBI (*Bantuan Likuiditas Bank Indonesia* — Liquidity

Assistance of Bank Indonesia) that is tainted by systematic corruption practice. According to auditing agencies in Indonesia, the case has created total losses for the state of around Rp138 trillion (World Bank, 2005). The case took place in the last period of Suharto's presidency and has so far not been resolved and even breeds more corruption. Despite some actions being taken, the achievement has been disappointing. Those who are responsible for tackling the case use their authority for personal benefit. Some prosecutors and judges who have handled the BLBI case have been proven several times to have made illicit deals with suspects in the case. They conducted secret meetings and received bribes from suspects to contrive the termination of an investigation or to soften the prosecution.^{xxviii}

Public sector services in particular have never retreated from making illegal charges or accepting bribes, creating inefficiency and aggravating the burden for the user of public services.^{xxix} Corruption hampers the investors who wish to apply for a business license because it takes a long time and is complicated with various charges. A report of a survey carried out in 2007 by KPPOD, a leading think-tank, notes that many regional governments maintain corrupt, costly, and overly complicated procedures for business licensing (KPPOD, 2007). Not surprisingly, the record of Indonesia's global competitiveness remains poor. According to the *World Competitiveness Yearbook*,^{xxx} Indonesia's rankings since 2002–2008 are respectively 47th in 2002, 57th in 2003, in 2004 Indonesia was not included, 60th in 2006, 51st in 2007, and 54th in 2008. These ratings positioned the country on the spot between the second-to fifth-worst of the countries measured. This fact may reflect the poor confidence of international investors to invest in business in Indonesia.

The persistence of corruption in Indonesia is shown in many international surveys, which generally indicate that corruption does not stop following democratization and governance reform. In June 2008, the World Bank Institute marked Indonesia as amongst the worst in developing countries in terms of law enforcement and controlling corruption efforts. The Institute, which combines many individual data sources into six aggregate governance indicators, shows that Indonesia generally still has a poor score in the overall governance indicators and has been doing poorly in handling corruption during the last 12 years (1996–2007). In a similar vein, the Political and Economic Risk Consultancy (PERC)



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Figure 11.1 PERC's corruption mark in Asian countries (2008–2011)

Source: PERC (2008; 2009; 2010; 2011) (www.asiarisk.com).

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Annual Graft Ranking consistently gives Indonesia a poor score on corruption. As Figure 11.1 shows, in 2008–2011 the institution persistently marked Indonesia as one of the most corrupt countries being surveyed. In 2011, the PERC scored Indonesia 9.25 and listed it as the most corrupt country among 14 countries surveyed in Asia. Against the records, the institution comments that 'The absolute scores show corruption in the public and private sectors is still very high' (*Bangkok Post* 09/04/2009) and further remarks that 'the judiciary is one of Indonesia's weakest and most controversial institutions, and many consider the poor enforcement of laws to be the country's number one problem' (AFP, 14/09/2008).

2 Another business consultant institution, Political Risk Services (PRS), which analyses climate for investment in hundreds of countries, also notes that widespread corruption, bureaucratic obstacles, and inadequate legal protection are the main sources of deterrence for foreign investment and economic growth in Indonesia. PRS further consistently describes that investment climate in Indonesia is undermined by the heavy practice of un-official payments. In 2007, for example, the PRS pointed out that the climate in Indonesia is generally unfriendly for foreign investors, since 'inefficient and corrupt administrative procedures, as well as an arbitrary legal system, frequently hamper international business, adding at least 10% to the cost of doing business' (PRS, 2007: 9).

Similar evidence is also shown by Transparency International's Corruption Perception Index (CPI) survey (see Table 11.1). With the fluctuation of CPI scores ranging between 1.7 at the lowest and 2.6 at the highest on a 10 point scale (with higher numbers indicating lower corruption), Indonesian records show no significant improvement over the last decade. Apart from the conventional types of corruption that took place during Suharto's era, the TI reports that political corruption has become a new trend in Indonesia's democratic governance. According to TI, 'one reason for this trend is the fact that political parties are not allowed to solicit their own funds to the required amount. Ministers and other holders of political office are expected to solicit funds, usually corruptly, to feed their political party's demands' (TI, 2008: 195).

Although the corruption indices reported in these surveys are generally based on subjective rankings by foreign business persons, domestic

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Table 11.1 Corruption remains a problem: Indonesia's CPI records

	Authoritarian period				Democratic period											
	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	
Score	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	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	

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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).

1 surveys and investigations also articulate a similar picture. A Governance Assessment Survey by Gadjah Mada University in 2007, for example, concluded that illicit capture systematically takes place in governmental offices in all areas of the 10 provinces and 10 districts surveyed (ICW, 2008: 8). Meanwhile, audit investigations undertaken by the State Auditor Agency (BPK) in every semester also revealed that there is a constant misuse of state budgets in most government institutions during the democratic era (*Koran Sindo*, 26/01/2008). During the period of 2003–2008 the BPK has reported 210 cases of misappropriation of money-worth Rp30.18 trillion and US\$470 million (*Suara Merdeka*, 13/01/2009).^{xxxii}

Evidence of the proliferation of corruption is not only reported by surveys, observations, and investigation reports. There are also testimonies in thousands of Short Message Services (SMS) and letters delivered by ordinary people to President SBY. Since the president launched the postal address of PO BOX 0049 and the telephone line 9949 in 2004 for direct complaints from the people to the government, corruption issues always occupied the top rank of messages delivered to the president in every year (*Rakyat Merdeka*, 23/07/2007).

Although a number of anti-corruption task forces have been established, the poor performance of conventional rule-enforcing agencies such as the police, prosecutors and the courts greatly reduces the prospects for eradication. In fact, during the last four years the rule-enforcing authorities that are charged to uphold law enforcement have been the most corrupt institutions. The Global Corruption Barometer (GCB) of Transparency International revealed that police, parliament, political parties and the courts held the worst records on corruption (see Table 11.2).

This figure is also confirmed by annual reports from the National Ombudsmen Commission. In 2007, for example, 251 (29.7%) out of 846 complaints that the commission received concerned the poor performance of the police agencies, followed by 168 for regional governments, 114 for the court, and 65 for national government departments (*Antara News*, 28/12/2007). Post democratization, judicial officials generally have enjoyed a poor reputation for exploiting the law for self-enrichment. This is shown, for example, by the ongoing bulk of public reporting to 14 Indonesia-wide offices of the Indonesian Legal Aid Agency (LBH) concerning abuse

Table 11.2 The four most corrupt institutions in Indonesia

2005	2006		2007		2008		
Institution	Score/ Rank	Institution	Score/ Rank	Institution	Score/ Rank	Institution	Rank
Political Parties	4.2 (1)	Parliament	4.2 (1)	Police	4.2 (1)	Police	n.a. (1)
Parliament	4.0 (2)	Police	4.2 (2)	Parliament	4.1 (2)	Customs office	n.a. (2)
Police	2.0 (4)	Judiciary	4.2 (3)	Judiciary	4.1 (3)	Immigration	n.a. (3)
Judiciary	3.8 (3)	Political parties	4.1 (4)	Political parties	4.0 (4)	DLLAJR (Transportation authority)	n.a. (4)

Source: ICW (2008: 10) and GCB-TI Indonesia 2005–2008.

committed by law enforcement agencies and the existence of ‘court mafia’ (KPP, 2008). In a similar vein, a report from the Commission of Prosecutors in 2007 also mentions that the Commission received about 400 incoming reports from the public concerning irregularities and violations related to prosecutors, mostly in the form of extortion (*Suara Merdeka*, 19/10/2008).

A long-serving and reputable anti-corruption fighter, George Aditjondro (2001), maintains that corruption in the democratic transition era is worse than in the era of Suharto, since the uncontrollable disease has spread to numerous groups and actors. Anecdotal evidence shows that during the democratic transition corruption manifested itself in various ways and at all levels of the power structure, from the top levels of power to street-level (ordinary) bureaucrats in the lowest structure of government (Hornick, 2001). In other words, all power holders effectively utilize their authority as a commodity for personal gain. Not surprisingly, former Minister of National Development Planning, Kwik Kian Gie, suggested that in the democracy era an average of up to 40% of the national budget has been embezzled annually (*Banjarmasin Post*, 05/12/2007). In an even more pessimistic view, KPK predicted that the percentage of the budget that is abused may reach 45% of the total APBN (state budget) every year (*Sinar Harapan*, 20/04/2005).

Top officials or high-level executive branches keep extracting illicit payments from SOEs and natural resource exploration activities.^{xxxii} The players are high ranking officials including senior bureaucrats, regents/

mayors, governors, heads of national agencies, ministers, and even presidents. Owing to this type of corruption, for example, some companies have the privilege of occupying thousands of hectares of forest and conducting illegal logging without fearing punishment (Rais, 2008: 156–158). In 2008, the public was outraged over the discovery of an irregularity in a gas exploitation contract made under Megawati's administration in 2002. At the time, President Megawati appointed her husband, Taufik Kiemas, to head senior government ministers on a trip to Beijing in December 2002 to hold talks with Chinese Prime Minister Zhu Rongji and negotiate a US\$13 billion liquefied natural gas (LNG) contract for Tangguh field. The deal was suspected to be tainted with corruption since the selling price was too low and has caused potential losses to the state of Rp75 trillion. Some commentators believe that the Tangguh gas selling price is only one sixth of the normal selling price, so that the country will be disadvantaged by US\$3 billion a year and Rp75 trillion over the 25 year contract (*Kompas*, 02/09/2008).

Political corruption also increased greatly after democratization, since the parliament is now recognized as a major source of power. Lack of funding for political parties, multiple interpretations of legislation, and sudden possession of discretionary power along with the limited capacity of new politicians are cited as the primary explanations for the problem. Political corruption that is reported to involve hundreds of legislative members at national, provincial and local level leads to the public impression that their political parties support the officials involved in the cases (*Suara Merdeka*, 20/12/2007). This is shown, in the TI Global Corruption Barometer survey mentioned in Table 11.2, that consistently put the parliament and political parties among the country's most corrupt institutions. In the period between 2003 and 2006 alone 967 provincial and local parliament members were named as suspects in corruption cases (Hadiz, 2008: 2). National parliament members also seem to wait to be named as suspects of corruption. For example, throughout the first half of 2009 at least five members of the House of Representatives were arrested by KPK on various charges of corruption.^{xxxiii} Previously in 2008, there were also several DPR members who were arrested for alleged corruption.^{xxxiv}

Meanwhile, petty corruption remains unchanged. Street-level bureaucrats keep taking advantage of their daily jobs by receiving bribes,

gratuities and other benefits when providing basic public services and clemency for offences (such as avoiding traffic tickets, false custom clearance, and evading tax).^{xxxv} It is still a common practice in Indonesia that people have to pay additional fees for getting services; otherwise they will be in trouble, no matter what their condition. Bureaucrats generally impose private taxation through extortion when people and firms want to be issued with, or to retain, licenses required to undertake particular activities, or if they want to attain services to which the people and firms in question are already entitled, such as protection by the police against violence and intimidation (McLeod, 2003: 8–9). In addition, in most sectors, the system of public procurement still relies on the decisions of bureaucrats who commonly take benefit by attaining kickbacks from government contractors (Hornick, 2001: 14).

To summarize, it is clear that democratization does not necessarily reduce corruption. In fact, as will be described below, due to the decentralization of power and administration, corruption previously concentrated at the central government level has now spread into the regional government level.

1 **The Spread of Corruption to the Regional Government Level**

In general theoretical terms, decentralization is considered one of the more effective approaches to tackle corruption. Apart from creating smaller constituencies that more easily facilitate the monitoring of the performance of elected representatives and public officials, decentralization also reduces collective action problems related to political participation for supervising the government (Lederman *et al.*, 2005: 5). Decentralization enables the public to organize small groups of people to undertake dialogue with the government to question and demand service improvement. In this respect, the more decentralized the political system, the stronger are the accountability mechanisms and the lower is corruption (Nas *et al.*, 1986; Rose-Ackerman, 1999). However, when not properly designed, decentralization can also undermine the accountability of government. As supervision from the central government loosens and regional authorities often lack their own checks and balances,

regional officials have more space to maneuver for practicing corruption (Fox, 2000: 6).

Once decentralization was undertaken by Indonesia many commentators expressed optimistic expectations concerning its potential to oppose the centralized and corrupt state. It was said that decentralization would create advantages, including narrowing the gap of disparity among regions, the more participatory process of political and social development, and the weakening of vertical authority structures will improve the financing, planning and supervision of social services. Commenting on the early stage of the decentralization process, Alm *et al.* (2001: 86), for example, maintain that:

The assignment of significant new expenditure responsibilities to provincial and especially to *kota/kabupaten* governments has the potential to achieve the efficiency gains that come when a government's decisions are more responsive to the wishes of its citizens, so that public services are provided in amounts that correspond more closely to the preferences of the individuals in those jurisdictions, rather than at uniform national levels. Other potential gains include greater revenue mobilisation, because citizens may be more willing to pay local taxes to provide local public services and because regional governments may be more familiar with, and so better able to tax, local tax bases.

After several years of implementation, however, the decentralization process in Indonesia suffered from criticism that it only provided more opportunity for local elites to commit corruption. Decentralization did not make significant improvement in accountability and public services; rather, it caused the spread of corruption, increased localism and a 'politics of little emperors' (Aspinall and Fealy, 2003; Hadiz, 2004; McCarthy, 2004). The 'big bang' decentralization caused an 'anarchical' and 'chaotic' institutionalized pattern of corruption during the New Order regime (Webber, 2006: 411). Some Indonesians called the phenomenon *Efek Seratus Suharto*, the '100 Suharto Effect' (Thorburn, 2002: 623). The term describes a trend in regional corruption that multiplied corrupt rulers like Suharto. Governors and district government heads (regents/mayors), who now enjoy tremendous political power within their respective regions, have typically misused their position to enrich themselves,

their families, and other close associates; just like Suharto did during his presidency.

Decentralization allows the transfer of significant amounts of revenue to provincial and regional governments. But this has not been accompanied by a corresponding improvement in their financial management capacity, or by increased proper internal and external monitoring/supervision (DRSP, 2006: 8).^{xxxvi} In fact, there is an increasing tendency where oversight bodies at local level tend to abuse their authority, and take illicit benefits from those under their supervision (Dwiyanto, 2002b: 107). As a consequence, as Nordholt (2004: 30) argues, Indonesia's decentralization does not necessarily result in democratization, good governance and the strengthening of civil society at the regional level; instead it allows corruption, collusion and political violence that once belonged to the centralized regime to be now molded into existing patrimonial patterns at the regional level.

1 **The Reform Deficits**

While reform programs seem to be achieving impressive progress, the persistence of corruption during democratic transition raises questions about why the new institutional structure of governance does not reduce the problem. One way of examining this question is to understand that the democratic transition process is not always resistant to the influence of the system and the political configuration set up by the previous authoritarian regime. As international experience shows, 'the characteristics of the previous non-democratic regime have profound implications for the transition paths available, and the tasks different countries face when they begin their struggles to develop consolidated democracies' (Linz and Stepan, 1996: 55).^{xxxvii}

The persistence of domination of pre-democratic elites occurs partly because democratic transition was not followed by transformation of personnel in the bureaucracy, judiciary and military, or a large-scale redistribution of power in the business sector (Webber, 2006: 410), making an opportunity for the old neo-patrimonial actors to reposition themselves within the new political amphitheatre. Generally speaking, as Robison and

Hadiz (2004) argue, the old power relations in Indonesia have simply reinvented themselves since Suharto's fall rather than being transformed. Indonesia's bureaucracy, in particular, has generally not been too much different to what it was during Suharto's era. The administrative system still tends to emphasize 'rules and compliance' rather than 'incentives and performance' (Cole, 2001: 14). Even if presidents have shown willingness to deal seriously with corruption, because officers in the bureaucracy are still circumscribed by the old traditions, presidential programs will simply be opposed by bureaucrats. In this respect, on one occasion President Megawati complained about the poor performance of Indonesian bureaucracy by calling it a 'waste basket' (*keranjang sampah*), referring to its lethargic performance in responding to public demands (*Kompas*, 11/02/2002). One of her ministers, Kwik Kian Gie, on another occasion, also maintained that the bureaucracy had been contaminated by an acute corrupt mentality under the 32 years of Suharto's government (*Kompas*, 10/06/2000).

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In addition, social disorder in Indonesia engineered by Suharto's government persists, hampering the functioning of the democratic mechanism in curbing corruption (Antlöv, 2002: 2; Cole, 2001). On the one hand, for over three decades, citizens were forced to choose between various patrons to channel their interests, and had been subject to the very repressive and unresponsive government. Thus citizens have little to trust the political and judicial system, and have little experience of influencing public policy. On the other hand, the massive accumulation of power and patrimonial governance system has meant that the government has been unaccustomed to the notion of accountability toward society in general. For a long period, government officials have been informally and effectively placed above the law, allowing them to exploit their authority for private benefit. Thus, the old systems, values, and behaviors have survived in the era of new democratic freedom, and are now ever more being put to the service of new political masters (Cole, 2001: 13). Despite decentralization processes, bureaucrats, in particular, have positioned themselves as a strong group with significant support bases via the use of patrimonial practices during the Suharto government. As a consequence, newly established regional and local democratic institutions have been ineffective in promoting responsive and accountable governance.

In other words, the democratic transition in Indonesia has been influenced by the widespread and deep-rooted patrimonial practices that Suharto built (3–4; Robison and Hadiz, 2004). Although the authoritarian regime has changed, the use of personal and particularistic ties still take place as the means by which civilians and elites seek to influence politics. In such circumstances, the governance system fails to operate as it should because state institutions are generally not impartial, are unpredictable, and are in disharmony with the rule of law, while the citizens (as clients) have had to utilize informal connections to obtain services, including bribery.^{xxxviii} For example, a national survey carried out by Partnership for Governance Reform Indonesia (PGRI) in 2002 shows that two thirds of its respondents stated that they have been involved in the practice of bribery, not necessarily because they were forced, but because they considered it the only efficient way to attain government services (PGRI, 2002: 22).

The persistence of corruption in Indonesia, however, is not only perpetuated by the inheritance from Suharto's government. It is also a product of incomplete democratic consolidation. As the World Bank (2003b) points out, despite the progress on governance reform discussed above, the accountability mechanism is still characterized by substandard functions on every level (see the summary in Box 1). Moreover, vested interests are too powerful, limiting the state's ability to undertake comprehensive reform in implementing a mechanism of accountability (World Bank, 2003b: vi).

As well, the transitional process, which by nature created social and political instability, allowed informal rules to thrive and provided incentives for corrupt officials and their cronies to retain power without proper monitoring. This situation is even worse due to the co-opting of Indonesia's democracy by criminal networks and drug trafficking. Many leaders of *preman* (semi-criminal) groups, who are relatively uneducated and rely on organized violence, are reported to enter politics where they hijack new political and economic structures (Wilson, 2006; Chadwick, 2006: 72–74). They have succeeded in taking hold of some key positions in the policy-making structure, but are inexperienced and have a very limited capacity to understand and carry out their jobs (World Bank, 2003b: vi).^{xxxix} So, while many scholars advocate that the key to combat corruption relies on policymakers developing strategies for addressing the problem, most

1 **Box 1: Accountability Remains Weak: The World Bank Analysis**

In 2003, the World Bank analyzed the continuance of the weakness of accountability mechanisms in the governance configuration of Indonesian democratic transition. The Bank summarized that the weaknesses were due to a number of factors, including:

- ineffectual rules enforcing agencies, because they were poorly funded, ill-equipped, and tainted with corruption;
- most politicians and policymakers have a lack in formal experience of government as they are just starting to learn their new job;
- continuations of patterns of behaviors under the New Order regime that fundamentally undermine accountability, not only at central but also, at provincial and district levels;
- strong and fragmented vested interests on state asset redistribution following the financial crisis, making the illicit state capture very difficult to be controlled;
- limitation of the media and civil society to scrutinize the government;
- deficient control of citizens over politicians and service providers;
- poor capacity of politicians in making regulations and keeping agencies in check;
- Non-transparent systems of administration.

Source: World Bank (2003b: vi).

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of these new policymakers do not have adequate capacity to develop the strategies. Besides, they do not want such strategies because this would harm their own interests.

Apart from these issues, Suharto's downfall has created the loss of effective government (McLeod, 2003). The governance system that used to be controlled by a single authoritative power has disintegrated. Although the return of authoritarianism is certainly not likely, democratization has created a diversity of groups, leading to conflicting interests and agendas, and eventually eliminating unity in command. The establishment of

extra-governmental institutions, which have even less connection to one another, makes coordination among actors more difficult.

The situation is worsened by the fact that the governance reform is taken with the absence of a 'road map', a binding agenda that could lead the reform to a collective destination. After 10 years of reform programs, there is no single blue print for determining the agenda. Rather, the reform programs contain several approaches, which manifest in separate strategy documents produced by government, parliament, bureaucracy, political parties, CSOs, and international development agencies. Each has its own agenda, program and framework for putting the idea of governance reform into practice (UNDP, 2006). These actors not infrequently work independently of each other. Sometimes, the view and keenness for reform is also not uniform across agencies. Stated simply, the absence of a common agenda has created institutional fragmentation, slowing the pace of reform.

Coordination and synchronization of individual agendas have been difficult because of the complexity of power relations. Given the fact that there is no single institution that has a mandate to coordinate the governance reform program, poor coordination in terms of harmonizing authority emerges. The president is no exception. This fragmentation of power has created a situation where key political actors are not necessarily with the presidential circle, making it difficult for presidents to influence key political-governmental agencies (Cole, 2001: 16).

Furthermore, the implementation of reform has been half-hearted due to obstacles that come from elites and political parties pursuing their own interests. Overall, political parties' willingness to realize good governance is only lip service; their genuineness is doubtful as good governance might obstruct their interests (see World Bank, 2007). The attempt to combat corruption is undermined by the nature of political dynamics in the new political system. Given the fact that Indonesian elites are almost defined by the opportunities for beneficial corruption, attempts to tackle the problem will encounter major political upheaval (King, 2008). All presidents, albeit formally articulating the importance of corruption eradication and employing some measures, are unable to escape from the corruption already so pervasive in their immediate circumstances. Taken as a whole, the political arena is tainted by illicit

captures promoted by the parties that belong to, and provide political support for the presidents. Sadly, the involvement of political parties in corruption also limits the supervisory role the parliament plays to pressure presidents to work with integrity. A further important factor is that Indonesia's law enforcement agencies are hampered by a number of defective functions, making them unable to work independently to tackle corruption.

Concluding Comments

When democratization started following the fall of Suharto, the notion of governance reform to strengthen formal accountability mechanisms dominated most public forums. Yet the debate rarely pointed to its side-effects. Indeed, governance reform opened many opportunities for people to engage in governmental processes. But they are not necessarily prepared to comply with democratic principles. Thus, while governance reform can produce positive outcomes, it also creates unintended consequences, including the spread of corruption. In the New Order era corruption was committed relatively undercover by a limited number of people. But it is now a more openly and systematically committed practice. As the processes of devolution and decentralization of power deepened, the distribution pattern of corruption was also decentralized. While the initial circle of corruption centered on Suharto's circle, it has now spread to the new power centers in various state institutions and regional governments.

Moreover, the set of governance reforms has created a complex governance landscape, making corruption eradication much more difficult. Despite the domination of elite groups, there is no single element that holds the capacity to retain the power necessary for the operation of effective governance. While the government has tried to initiate several anti-corruption policies, the outcomes were not very effective. If the problem persists, it would be likely that apathy for the democratization process will grow; people may lose their faith in politicians and political parties. If the trend of popular disillusionment continues, the question might be a matter of when, and not if, an authoritarian power structure re-emerges.

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