

CORRUPTION AND TRANSITIONAL DEMOCRACY

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Abstract

Artikel ini merupakan studi terhadap hubungan demokrasi dan korupsi. Argumentasi utama artikel ini bahwa korupsi sangat potensial tumbuh di negara yang sedang memasuki era transisi demokrasi yang tidak ada reformasi yang serius dalam sistem hukumnya. Mengambil data dari berbagai negara membuktikan bahwa demokrasi tidak serta merta mengurangi korupsi dan sebaliknya di negara otoriterian dengan sistem hukum yang kuat justru korupsi susah untuk tumbuh subur. Resep utama pemberantasan korupsi adalah penegakan hukum bukan sistem politiknya. Untuk negara transisi demokrasi seperti Indonesia lembaga anti korupsi yang kuat bisa jadi solusi yang tepat untuk meredam korupsi di tengah belum ada reformasi serius dari sistem hukum yang ada.

Kata Kunci: demokrasi, korupsi, penegakan hukum

INTRODUCTION

In the developing countries such as Indonesia, corruption is the major problem concerned by the public. Corruption also as the major contribution to the low growth rates in many developing countries (Mauro 1995). Corruption also is the main reason for the losing opportunity cost and for diminishing the effectiveness of public sector of such as education in Indonesia (Suryadarma, 2012). Corruption also reduces the trust from public to the government. It is extremely difficult for government for involving public participation in implementing policy and policy making process because the lack of trust to the government. On the other hand, Trust as a key element in democracy, democracy can work properly if there is a trust as a social capital in the society (Putnam, 2002).

Furthermore, there is a serious concern in the new democratic countries like Indonesia that the massive number of the corruption scandal in Indonesia is caused by democracy. Indonesian

prominent political scientist from the University of Indonesia, I Wibowo, claims that democracy cannot reduce the corruption. Democracy indeed flourishes the corruption (2011). So then, it is not a big surprise that many people think the authoritarian regime is better than democracy. Suharto era is better than after Suharto era. The question remained is that how effective democracy is for eradicating corruption? In many cases, we can find the huge number of corruption both in democratic countries and non-democratic countries. However, in some case, authoritarian countries have less number of corruption rather than democratic countries.

This paper will argue that we can find enormous numbers of corruption in the new democracy transitional countries. The system of authoritarian in law institutions is still remained while the political system has changed to the democratic system. In addition, corruption is the problem of rule of law rather than the problem of democracy. This essay will begin with the explanation of the

correlation between democracy and corruption. Furthermore, this paper also will argue that independent anti-corruption commission is effective in the transition country from authoritarian to democratic countries while the law institutions such as police, attorney general and court are still corrupt

TWO PERSPECTIVES ON DEMOCRACY AND CORRUPTION

There are several meanings of democracy. The prominent one from Robert Dahl (1999), He categorizes some requirements of democracy such as public participation, equal voting process of election, control of agenda, and enlightened understanding. Australian National University scholar, John Dryzek (2000) develops the idea of deliberative democracy from Habermasian tradition. Deliberative democracy emphasized the important of public participation in deliberative process of policy making rather than free election and representative democracy. In Asia, there is Asian value democracy, a concept of democracy based on the Asia value. However, Asian Value is similar with authoritarian system and cannot be categorized as a democracy. Democracy in this paper refers to the minimum meaning of democracy. The criteria of democracy in this paper are free election, independent media, non-hegemonic party system and civil liberty.

In major literatures about democracy and corruption argue that democracy is effective for reducing corruption. A democratic political system minimizes the negative effect of corruption with accountability and free media circumstances as a watch dog. Empirical evidence come from the research conducted by Drury et al, (2006 p. 133) show that free press, regular succession can create the system of accountability. As a result, the leaders should more accountable in ruling the government if they want to keep their power. On the other hand, the opposition become a watch dog to discredit the government and

to struggle the power. Additionally, it affects the reducing number of corruption.

In general, we can argue that most democratic countries are less corruption countries. According to the Transparency International in 2011, in the top ten of the Transparency International's perception index, only Singapore can be categorized as an authoritarian country (transparency International, 2011). However, some evidences show democracy creates more dangerous corruption than authoritarian regime in the new democratic countries. Democracy with the distributed power, make abuse of power (corruption) is also distributed from one single actor in the authoritarian system to the many political actors in the new democracy transition countries. It is the reason why in the new democratic countries, the number of corruption increases. Olson (2002) argues that the number of corruption increases in the new transition regime in post-communist regimes in Eastern European countries. Furthermore, he argues that the political changes just transform the corruption form, from "stationary bandit" to "roving bandit". Stationary bandit refers to the type of corruption in the authoritarian regime. The stationary bandits know they will rule for a long period. The stationary bandits sell protection to the small bandit with their monopoly in political power and economy. Yet, while the regime changes to democracy, bandit also changes, and more dangerous than before (roving bandit). They know that in democracy they will have a short time in power. As a result, they corrupt enormously while they think that they still have a power in only short time period.

Indonesia is a good example for the Olson's example for roving and stationary bandits (Goodpaster, 2002). The latter shows interest only in plundering and pillaging the territory under his control and when the territory's resources are exhausted, moves on to richer pastures. In contrast, a 'stationary bandit' recognizes that settling down in the territory and protecting its residents from other roving bandits could help the territory's resources

grow over the longer term to a much higher level and therefore generate more in tax revenue than could be plundered by the roving bandit in the short run. Suharto was willing to curb rent seeking policies when they posed serious threats to growth. Thus in the mid-1980s, he embraced the deregulation being advocated by internal reformers and international institutions, ending at one stroke a whole range of monopolies and controls that created rent seeking opportunities, and instead opting for growth.³⁷ Over time the forms of corruption shifted along with the policy changes: rents generated by regulatory controls were replaced by skimming from public expenditures, which were subsequently replaced by taxes on private provision of infrastructure. Until the early 1990s, the common factor was a self-restraint in the interests of maintaining power and control. It is argued that Suharto's downfall came when, following the death of his wife, who had a restraining influence on the family, he lost control and was unable to check the excesses of his own children. At this Point, the once stationary bandit gave way to many roving bandits (Goodpaster, 2002, Cited in World Bank Report, 2003.pp.7-8).

Free election encourages rent seeking behaviour between businessman and politicians. Baer and Bryan (2005, p. 4), find that in twenty-two developing countries 'more than four out five respondents state that they supply the majority of funds for their campaign, often at the risk of personal bankruptcy. As a result, many resort to the relationship with individual donors who expected preferential treatment once the candidate is elected, while many reformers choose not to run at all, leaving the field to candidates who are independently wealthy'. Kurniawan (2012) illustrates the political corruption in the democratic countries as the rule of business man, rather than the rule of people:

Democracy encourages rent seeking behaviour among businesspeople and politicians. Politicians need money to win elections, and businessmen provide the money to the politicians.

After the politicians are elected, they pay back the money to businesspeople in the forms of privileges and benefits from state policies. As a consequence, elected politicians do not care about the interests of their constituents, such as poverty eradication, improvement of healthcare and education. They just think how to pay back the costs of the election process. This reality is not democracy but plutocracy, the term from Aristotle refers to the domination of rich people in controlling the government. The other effect of rent seeking is oligarchy. Indonesia, after an authoritarian regime, shows that most of the political elite and leaders focus on debating against each other and how to obtain power rather than how to develop Indonesia's economy. Hadiz and Robison (2004) show that true democracy never happened after the Soeharto era. The power of the business oligarchy took more control over Indonesian politics than did politicians and civil society.

Some scholar also argue that democracy with the free media can make government controlled by the media and will become transparent (Drury et al, 2006). However, in democratic countries media also is part of industries. Democracy with the independent media does not truly become a "watch dog" to the government. Media are owned by the businessmen (in some case businessmen also doubles as politicians). In this circumstance, the powerful media (in capital power) frames the public opinion, particularly in issue of the corruption scandal for discrediting the government for political reason.

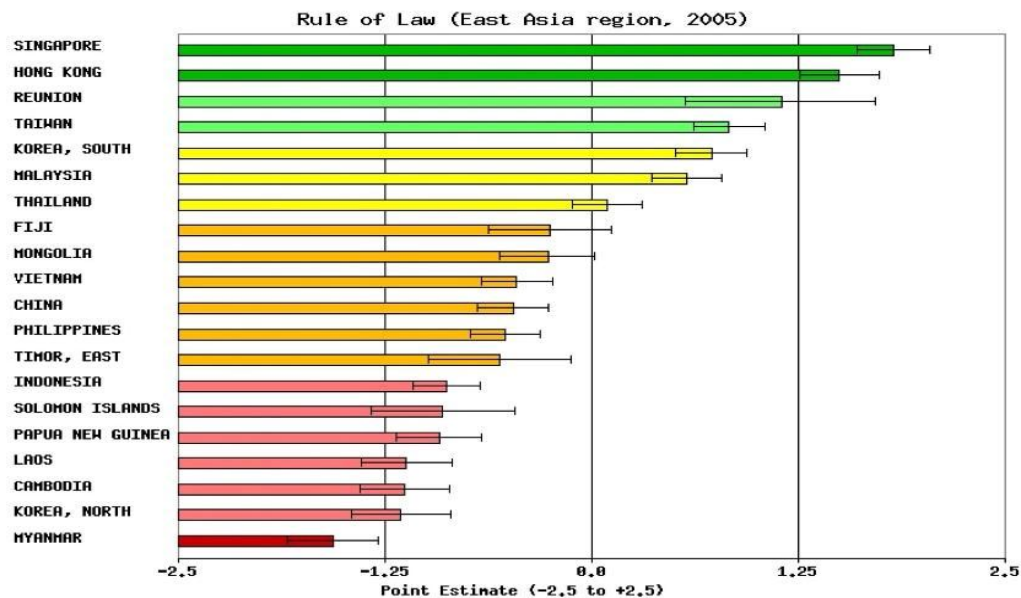
RULE OF LAW RATHER THAN DEMOCRACY

The important of rule of law in democracy is becoming massive issue nowadays. Some political scientists emphasize the rule of law rather than free

election or pluralism in the process of policy making. Thomas Meyer (2012, p. 10) argues that only the rule of law gives value to democracy. Free Election and pluralism or deliberative policy making are only the problem of instrument of government succession, but the rule of law are the essential feature of the democracy construction.

The lack of supremacy of law is the main reason why in the new transition democracy countries like in Indonesia and Eastern Europe, the huge number of corruption still exists. The first picture from Freedom House (2005) shows that

even though Singapore is not a democratic country, the highest point of this country in rule of law is the main reason why the corruption perception index of Singapore according to the transparency international (2011) is the best rank in Asia. Singapore also is better than democratic countries such as Indonesia and Philippines in the Asia (second picture). Brunei and Malaysia also have the same political system with Singapore, but their index of corruption is better than Indonesia, Philippines and Thailand. Corruption is the problem of rule of law rather than the problem of democracy.



Source: Freedom House (2005)

Singapore, a country is with the authoritarian system with the hegemonic party system, while only one party dominant, has a very good perception index of corruption. Since independent from Malaysia, Singapore has a strong government with the authoritarian system. Former Singapore strong leader, Lee Kuan Yew, promotes the idea of Asian Value and to counter the liberal democracy. The characteristics of Asian Democracy based on the Asian Value that are strong leadership than political pluralism. Secondly, emphasize social harmony than political conflict, thirdly, penetrating state and bureaucracy intervention in economic

and social affair. Next, more focus in economic well-being rather than civil liberties and human right. Lastly, there is a preference for the prosperity and community good of the social community over individual right (Theik 2003, p.52). Even though Singapore's political system is authoritarian, based on a survey of transparency international, Singapore is the cleanest country in the world in 2010 (index 9.3) and still in the top of five in 2011 (index 9.2). Malaysia, a country is also with the authoritarian system. Since independence from British Colonial, have only one Party dominant, UMNO. Malaysia also has a strong leader like Lee Kuan Yew

in Singapore and Suharto in Indonesia, Mahathir Muhammad. However, the perception index of corruption is better than democratic countries in ASEAN.

COUNTRY	2010	2011
SINGAPORE	9.3 (1)	9.2 (5)
BRUNEI	5.5 (38)	5.2 (44)
MALAYSIA	4.4 (56)	4.3 (60)
THAILAND	3.5 (78)	3.4 (80)
INDONESIA	2.8 (110)	3.0 (100)
VIETNAM	2.7 (116)	2.9 (112)
PHILIPPINES	2.4 (134)	2.6 (129)
CAMBODIA	2.1 (154)	2.1 (164)
LAOS	2.1 (154)	2.2 (154)
MYANMAR	1.4 (176)	1.5 (180)

Source: Freedom House (2011)

Even though Indonesian political system has transformed from authoritarian to the democracy since 1998, there are no significant reforms in Indonesian law system. Rimawan Pradiptyo (2012) argues that the Indonesian anti-corruption law makes big corruptors is more beneficial than small corruptors in Indonesia due to the weak of punishment for corruptor. As rational actors, if the corruptors are more corrupt, they will get lower punishment relatives to the small corruptors. As a result, in contrast with Singapore, Malaysia, and Brunei, a democratic country like Indonesia; Indonesian's corruption perception index is lower than those countries. Furthermore, Pradiptyo argues:

“Despite A clear guidance on the intensity of punishments for each corruption types, judges’ decisions on the intensity of punishments sentenced across defendants are far from consistent. Using logistic regressions, we found that the probability of judges in sentencing defendants with financial punishments (i.e. fines, compensation and the seizure of evidence) does not depend on the level of economic losses inflicted by the defendants. On the contrary, the

judges’ decisions tend to be more lenient toward defendants with particular occupations but harsher toward the others” (2011, p. 1).

However, case of India can make new democratic countries can be more optimist about the future of democracy. India has a success reducing the corruption with democracy and economic miracle. The indicator is the corruption in the media coverage. For decades newspapers in India were dominated by scandal and affair of government. Today, India’s media have shifted from the corruption scandal issue of government to the popular topics such as businessman, technological fad, fashion, shopping mall and Bollywood (Zakaria, 2008, pp.138-139). India experiences show that the consequences of democracy as a noisy system, it might be that the number corruption in the authoritarian countries is more significant due to the closed access of information and the silent of media that are controlled by the authoritarian regime.

On the other hand, the surveys conducted by the most NGO such as the Transparency International are based on the perception. Furthermore, it might that the perception of respondents is formatted by the media. The effect of media in the perception of respondent is argued by Di Maria (2008, p.785). :

“The former occurs when perceptions of “corruption” by business people respondents are untrustworthy because they may have been temporally elevated in the lead up to the completion of the survey simply by being exposed to media reportage on local “corruption” stories. CPI data methodologies do not attempt to control for this effect. The opposite effect, of under-perceiving “corruption” also happens in conditions of media oppression, and when “corruption” is conducted in a highly secretive manner and remote from the perceiver” (Kalnins, 2005, p. 7; Galtung, 2006, p. 101 cited in Di Maria, 2008, p785).

As a result, people in the free media circumstances might be more sceptical to their government than people in unfree media circumstances. They might have lower trust to the government rather than people in the authoritarian regime.

THE IMPORTANT ROLE OF INDEPENDENT ANTI-CORRUPTION COMMISSION

Transitional democracy countries indeed create more massive corruption because they have enormous problems in the supremacy of law. In several cases of democracy transition countries, the law enforcement agencies still dominated by the authoritarian system and persons. "Guarding the guard" is the main reason why could be present in Hong Kong and other countries. The reformists should establish the new and strong institution such as the independent Corruption Eradication Commission or in the other countries called as the independent commission of anti-corruption (ICAC).

In the context transitional democracy country like Indonesia, corruption is considered a big problem. It is deemed an extraordinary crime that can be found in every institution, even in political parties. In order to resolve this problem, the independent commission of anti-corruption (ICAC) was established as a strong institution to deal with the entrenched corruption. The (ICAC) indeed was designed as an auxiliary state institution. Auxiliary state institutions are needed when formal institutions, such as the police and the Attorney General's Office, cannot perform. An auxiliary state institution works like a civil society organization to control the state, including political parties. In a transitional democracy, when an authoritarian system is still working in state institutions, auxiliary state institutions are needed (Kurniawan, 2012).

Furthermore, independent commission of anti-corruption is effective for reducing corruption. The effectiveness of the independent commission of anti-corruption in Singapore, Hong Kong and

Australia can be traced from the lower number of corruption based on Transparency International Index of corruption perception. The picture below shows the index of three these countries from 2001 until 2011.

A recent study of comparative experience with anti-corruption agency for the World Bank noted the factors of political back up from parties that drive success of anti-corruption commissions:

The success of an ACA depends on its being carefully situated from the start within a set of well-defined supports. These would include a comprehensive anti-corruption strategy, careful planning and performance measurement, realistic expectations and strong enough political backing (across class/party) to make it effective regardless of (political and personal consequences). The agencies that seem to score highest on these measures are those in Hong Kong, Singapore, Malaysia, Uganda and Australia/NSW" (Patrick Meagher, 2002).

However, establishing the independent commission in some counties in particularly in Indonesia has some political obstacles. In the recent day, Indonesian media cover the issue of weakening KPK's roles (The Commission of Corruption eradication) by the politicians in parliament and police department. In the Jakarta Post, Prominent Indonesia Parliament member, Fahri Hamzah claim that Indonesia does not need strong KPK (2011). In order to counter Hamzah's argument, in the same newspaper, Kurniawan (2011) argues that Indonesia needs powerful KPK due to the number of corruption in law institutions such as police, the court and the attorney general. KPK is the only institution that still has trust from the Indonesian people.

CONCLUSION

In general, we can conclude that the problem of corruption in the new democratic countries because the authoritarian system still exists, while the political system has transformed. Corruption is the problem of rule of law rather than the problem of democracy. We can find that the country with the authoritarian system, but the perception index show that this country is remarkably clean country. On the other hand, some democratic countries with the problem of rule of law have the low index in corruption perception. In addition, an independent anti-corruption commission is recommended to the transition country from authoritarian to democratic countries for eradicating corruption while the law institutions such as police, attorney general and court are still corrupt.

From this paper, we can reflect that only rule of law gives value to democracy. The significant element of democracy is the rule of law. There is no democracy without rule of law. Democracy is not only the problem of the free election. Only the rule of law can create trust as a social capital for effective democracy. Free Election is only the problem of mechanism of government succession, but trust and rule of law are the fundamental aspect of the democracy building.

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