

Democratization, Market Liberalization and the Raise of Vested Interests and Its Impacts on Anti-Corruption Reform in Indonesia

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Abstract—This paper investigates the role of vested interests and its impacts on anti-corruption agenda in Indonesia following the collapse of authoritarian regime in 1998. A pervasive and rampant corruption has been believed as the main cause of the state economy's fragility. Hence, anti-corruption measures were implemented by applying democratization and market liberalization since the establishment of a consolidated democracy which go hand in hand with a liberal market economy is convinced to be an efficacious prescription for effective anti-corruption. The reform movement has also mandated the establishment of the independent, neutral and professional special anti-corruption agency namely Corruption Eradication Commission (KPK) to more intensify the fight against the systemic corruption. This paper will examine whether these anti-corruption measures have been effective to combat corruption, and investigate to what extent have the anti-corruption efforts, especially those conducted by KPK, been impeded by the emergence of a nexus of vested interests as the side-effect of democratization and market liberalization. Based on interviews with key stakeholders from KPK, other law enforcement agencies, government, prominent scholars, journalists and NGOs in Indonesia, it is found that since the overthrow of Soeharto, anti-corruption movement in the country have become more active and serious. After gradually winning the hearth of people, KPK successfully touched the untouchable corruption perpetrators who were previously protected by political immunity, legal protection and bureaucratic barriers. However, these changes have not necessarily reduced systemic and structural corruption practices. Ironically, intensive and devastating counterattacks were frequently posed by the alignment of business actors, elites of political parties, government, and also law enforcement agencies by hijacking state's instruments to make KPK deflated, powerless, and surrender. This paper concludes that attempts of democratization, market liberalization and the establishment of anti-corruption agency may have helped Indonesia to reduce corruption. However, it is still difficult to imply that such anti-corruption measures have fostered the more effective anti-corruption works in the newly democratized and weakly regulated liberal economic system.

Keywords—Vested interests, democratization, market liberalization, anti-corruption, leadership.

I. INTRODUCTION

THIS paper discusses the emergence of vested interests groups as the side-effect of the implementation of democratization and market liberalization which corresponds to the dynamics of anti-corruption agenda in Indonesia

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following the collapse of New Order authoritarian regime in 1998. The concern of the emergence of vested interests is embodied into related hypotheses: First, democratization is expected to establish a more open political system allowing high degree of political freedom and civil rights and these in turn are expected to increase the quality of transparency, accountability and public participation in government operations and, as a result, control corruption; and second, minimization of the state's monopoly through market liberalism and reducing its capacity to tamper with market competition, outcomes likely to be achieved through privatization and deregulation, also has the capacity to control corruption.

At broad level, there has been considerable theorization about the importance of democracy and market liberalism in the fight against corruption. The combination between both political and economic approaches is believed to be an efficacious strategy to combat corruption [2], [6], [7], [21], [22], [27]. During recent decades, these ideas have been influential in the implementation of structural adjustment packages developed by international donors that among other things included deregulation and divestment of public enterprises. Such packages have been adopted by many developing countries across the world with two interlinking expectations: that these measures would on the one hand stimulate economic growth and, on the other, reduce corruption.

Even though the theory is cogent and convincing, it does not mean that it has an automatic connection between the adoption of democracy and market liberalism and the effective corruption eradication [26], [30]. In many experiences, democracy precisely poses unanticipated outcomes when implemented under the conditions of market-liberalism. Under these conditions, the rise of vibrant new economic sectors inclines to stimulate the state officials to use their powers which are still significant and substantial for the market functioning to multiply their economic benefits. The strong urges will gradually resurrect a myriad of demand for official malfeasance to enjoy flexible rules to support the newly born economic forces which usually need official assistance, support, concession, and more flexible permission to survive in a wild competition against their business rivals. The trend will constitute patterns of mutually beneficial alliances based on reciprocity and mutual trust among the business actors, politicians, and other state officials as the public decision makers to establish a vested interest within the weakly

regulated and still corrupt political-economic structures, which in turn also potentially reduce and weaken the state's anti-corruption agenda.

This paper will begin with a discussion on the progress of corruption eradication in the post authoritarian Indonesia, which relates to the subsequent discussion on how the regime change and political-economic transformation have impacted on anti-corruption agenda in the country. In the following section, the evaluation of the most leading and extra-ordinary KPK performance will be elaborated which in turn to understand how is the role of vested interests and its impact on the KPK's anti-corruption measures. In the conclusion, it will be argued that democratization, market liberalization, introduction to anti-corruption laws and the establishment of special anti-graft agency may have empowered Indonesia to strengthen its anti-corruption agenda. However, due to the role of vested interests which intensively poses powerful counterattacks, those anti-corruption measures remained problematic for Indonesia to establish an effective anti-corruption system.

II. THE IMPACT OF POLITICAL AND ECONOMIC TRANSFORMATION ON INDONESIA'S ANTI-CORRUPTION

After Suharto's authoritarian regime had been toppled in 1998, Indonesia committed itself to anti-corruption as one of the top priorities in the reform movement. It was argued that corruption had become one of the fundamental factors damaging Indonesia's efficient working of markets, resulting in inefficient allocation and use of scarce resources, and challenging government's political legitimacy which culminated in the monetary and political crisis in 1997 [13], [17], [25]. To overcome the impact of the crisis, Indonesia was assisted by the World Bank, International Monetary Fund (IMF), and the US Agency for International Development (USAID) to implement some 'efficacious prescriptions' namely further market liberalization and democratization. These radical policies were subsequently implemented by the government by privatizing the state enterprises, redirecting public spending from subsidies, opening the economy for foreign direct investment, implementing tax reform, competitive exchange rates, and deregulation to establish self-regulating markets [9], [11].

The measures that were introduced to strengthen the market system also included democratization, in order to ensure fair competition, transparency, and accountability in the decision-making processes of the government. It was hoped that these reforms would, among other things, improve governance, promote development and reduce corruption. Indonesia also radically changed its political configuration through a significant decentralization of political and financial authority to the local level to increase political freedom and public participation in monitoring the state's operations [12], [1]. At the same time, several anti-corruption measures were introduced as part of the comprehensive anti-corruption strategy: these included establishment of the special anti-corruption agency, namely KPK; the amendment of the

constitution; and introduction of new legal drafts [11], [16], [14], [24], [4].

As the original product of the spirit of reform, KPK has been set up to be a special anti-graft agency expected to be a 'trigger mechanism' when the other ordinary law enforcement institutions such as Police and Attorney General Offices still maintain their corrupt systems. KPK has also been equipped with some powerful authorities and strong jurisdiction. It can order government agencies to prohibit someone travelling overseas, order to block a suspected bank account, and suspend financial transaction. Equipped with the high-tech instruments, this institution also has some privileges such as an authority to wire taps or record conversations of targeted person in the investigation and also to access bank and tax records. It has been also authorized to take over investigations and prosecutions conducted by police and the AGO if the public report is not reckoned, or delayed for too long without explanation, bias, or abstractive intervention.

The most recent evidence suggests that even though corruption has decreased somewhat it is yet to be significantly reduced in some areas. In fact, many argue that, in the wake of government's decentralization initiatives without the required checks and balances, corruption has become more systemic and devolved [10], [15]. Many think that while Soeharto's families and their cronies kept corruption confined within a small coterie, post Soeharto reform era has simply opened the door more widely for all politicians, bureaucrats, and also business groups at all levels to engage in corruption.

The expectation that market-stimulated rapid economic growth and introduction of a more democratic polity would reduce corruption also seems to have remained largely unrealized. Progress towards the goal of corruption control is moving slowly if not haltingly. Corruption in the country has indeed gone down but not to a level that was hoped for. Prior to the introduction of the special anti-corruption initiatives in Indonesia in 2004, its Corruption Perception Index (CPI) changed from 1.7 (very high) in the early reform in 1999 to 2.0 (significantly high) in 2004. In 2011 the CPI value stood at 3.0 (high) signifying that even though corruption has gone down it continues to remain 'high'.

Some analysts think that a nexus of vested interests, a 'small but powerful element', has taken hold on governance and exerts significant influence on both the processes as well as the outcomes of anti-corruption initiatives in Indonesia [9], [10]. In short, Indonesia has experienced mixed outcomes from its anti-corruption measures, especially those initiated by KPK, Indonesia's premium corruption control agency. Generally recognized as the most independent anti-corruption agency in the post-reform era, KPK's attempts at corruption investigation have been mixed: they have been 'successful' in some and relatively 'limited successful' in others.

III. EVALUATION OF KPK'S PERFORMANCE

KPK has extraordinary powers which are regulated by Law 30/2002. In the Indonesian legal system, the law on KPK has been categorized as *lex specialis* which should not be subject to any general rules. The characters of the special law (*lex*

specialis) is its ability to process formal crimes which can deviate from any provisions of the general criminal procedures. KPK has been equipped by extra-ordinary powers and privileges such as its ability to foreclose without court permission and to tape or record without court permission. KPK's authority to undertake wiretapping and eavesdropping on the conversation of suspected corrupt actors has been considered a very effective means by which to ensnare political elites and state officials involved in direct corrupt transactions. These extra-ordinary authorities which are regulated on a strong legal basis in Article 12 of Law No.30/2002 letters (A) to (H) are not owned by the police and state prosecutorial institutions. KPK's attempts to wiretap suspected corrupt actors is part of the effort to protect public and state interests, which is consistent with the spirit of Article 40 of the Law No.11/2006 on Telecommunication and Regulation of the Minister of Communication and Information and also Article 28 paragraph 2 of 1945 Constitution and Article 73 of Law on Human Rights.

For collecting sufficient evidence, KPK also can ask banks or other related companies for information on the financial transactions of the suspected individuals or corporations. The Commission is also allowed to access confidential banking data to track potential money laundering by requesting specific information to support preliminary investigation or to find evidence such as proof of transfer, proof of payment, cheque, proof of deposit, bank statements, audit report of investigation, documents or records related funding requests, contract documents, photo documentation, letters, disposition orders, proof of ownership and other information.

To perform the function of supervision, KPK also could take over corruption cases from the Police and Prosecutors as the basis of special consideration by using the concepts of 'unwillingness' or 'inability' based on Articles 8 and 9 Law No.30/2002 on KPK. Based on article 50 of the Law on KPK, it also could coordinate and supervise all processes of examination, investigation and prosecution collectively conducted with Police and Attorney General Office (AGO). KPK also can examine and investigate high level state officials involved in corruption cases without the president's permission.

KPK follows up corruption cases at two levels – those that are handled internally by KPK and those that are referred to other corruption control agencies such as police or the attorney general's office for further action. Based on the data performance, of the 7999 reported cases in 2013 KPK verified, analyzed and accepted for further follow up 6816 cases (85%) of which 619 (7.7%) were investigated internally by KPK itself and 177 (2.2%) were referred to other agencies. The rest, 6020 (75% of the total), were either not followed up or are awaiting final decision. Many believe that since KPK's corruption investigation procedure involves follow up of cases internally within KPK as well as by external agencies but under the supervision of KPK, it is thus accountable for all cases and thus its success must be measured by its record of handling of all cases [5], [29]. However, the task of coordination and supervision of cases referred to other

agencies, the second mandate of KPK, is not accorded a high priority for a variety of reasons. Firstly, there is weak mutual trust among KPK, police and the attorney general office mainly due to the fact that these external agencies – Police and Attorney General's Office – believe that KPK's extra-ordinary authority impinges upon their sovereignty. Also these agencies, especially Police which has a long history of corruption, regard the activities of KPK as threats [5]. Secondly, when corruption allegations involve police personnel themselves the investigating police officer/s sometimes demonstrate protect-thy-mate mentality and thus weaken truthful investigation [28]. Thirdly, the seniority of investigating officers of KPK especially those that are employed by it on secondment from Police Department also face resistance when they are required to investigate police officers that are senior to them. The three factors above have made KPK's tasks on coordination and supervision of corruption cases that are handled by external agencies especially by the Police department somewhat weak. As a consequence, KPK inclines to give priority to its pre-emptive enforcement task (*penindakan*) by examining, investigating, prosecuting and punishing rather than focusing on the task of supervision and coordination and this is creating work overload for KPK.

In the task of enforcement, KPK has become a new phenomenon in the post-reform Indonesia's anti-corruption efforts. The special anti-graft agency has successfully investigated and prosecuted various grand corruption cases involving big money and also big names who are in strategic positions in government and politics. KPK has successfully targeted elites of police, prosecutors and judges, elites of political parties as well as members of both local and national parliaments, active and former ministers, diplomats and ambassadors, and many businessmen who have been involved in the corrupt system.

KPK has succeeded in crossing the 'taboo boundaries' and prosecuted high-profile positions, a 'no-go' area during the Soeharto period. The former KPK commissioner Busyro Muqoddas [18], [23] said that since the establishment of the commission until now, KPK has achieved a record of success in handling big corruption cases with one hundred percent conviction rate which means none of the suspects were free from prosecutions and anti-corruption court's verdicts or penalty. The success of KPK has strengthened public confidence in the commission and it is currently regarded as the most trusted organization in Indonesia. However, there are some who believe that KPK's performance is still unsatisfactory.

In general, the total number of examinations (*penyelidikan*), investigations (*penyidikan*), prosecutions and punishments is much lower than the total number of cases reported by the public annually. In this regard the coordinator of Indonesian Corruption Watch (ICW) Danang Widoyoko [29] mentions that the corruptors caught by KPK are those that are "the unlucky", though KPK claims that their success rate is above average.

In short, KPK is Indonesia's special anti-corruption agency which has been equipped with strong powers and authorities guaranteed by a *lex specialis* law that can override all general rules or general criminal procedures. Starting from scratch in 2003 KPK has grown in strength, improved its staffing and refined its procedures over time. Each leadership phase of KPK has played an important role in fixing priorities and determining the focus of the agency – from organizational consolidation and institution building by the first chairman, to the current chairman's targeting of important economic sectors as KPK's key focus areas.

Although KPK has had considerable success in tackling mega corruption cases and in targeting high officials has broken 'taboo barriers'. Even though the deterrent effect of KPK's anti-corruption measures is still questionable, its performance has publicly acknowledged as capable to spread fear and wariness among corrupt state officials, politicians, and the corrupt business actors. The existence of KPK has also stimulated public optimism for the future of good governance in Indonesia. The optimism has been expressed by the strong support of the ordinary people, civil society elements and independent media.

Instead of the success stories, KPK still leaves some institutional weaknesses which seem to stem from some sources: Firstly, centralization of its activities without decentralized out-reach has weakened its capacity to target successfully the corruption allegations at the decentralized level; secondly, KPK faces difficulties in successfully coordinating and supervising corruption cases that they forward to other agencies for follow up and this in a way has also forced KPK to undertake more cases internally and has caused work overload and weakened efficiency; thirdly, its part staffing by secondment from other agencies such as the Police Department has shown signs of conflict of interest especially when corruption cases involving the officials of these agencies are undertaken. These KPK's institutional weaknesses have been used and exploited by the vested interest groups consisted of the coalition of business actors, politicians, government and law enforcement officials who fear of the growing power of KPK which has been considered as a serious threat for their political and economic interests. Obvious attempts to weaken and counterattack KPK have been done by the powerful vested interest groups particularly those involving corrupt elites of the ordinary law enforcement institutions.

In order to understand the context of the raise of vested interests and its impacts on KPK's anti-corruption measures, this research has used two case studies consisted of high-profile corruption cases handled by KPK which posed serious resistances and threats from the vested interest group's counterattack against KPK. The high profile cases used as the case studies are a beef import corruption case in 2013 and the Century Bank corruption case in 2009. Based on the case studies, several findings have been found which will subsequently be explained in the next section.

IV. THE VESTED INTERESTS & ITS IMPACTS ON KPK'S ANTI-CORRUPTION MEASURES

The role of KPK in Indonesian anti-corruption agenda is very crucial. Nevertheless, the increasing role of KPK has not come without threats and challenges. The restraints against KPK has not only come from internal, but also external. Political and economic nature in the post-authoritarian era have become external factors impeding KPK's anti-corruption works. In political level, the problem emerges from the lack of transparency and accountability of political party funding system. Since democratization leads to the implementation of periodic elections consequently implying the high political cost to finance electoral needs, the weaknesses and deficiencies of party funding system incline to be maintained and exploited by political and private interest groups to keep their privileges and capabilities to extract rents or to create corrupt opportunities for political and private benefits. As showed by the experience in the beef import corruption case handled by KPK in 2013, political corruption in the post democratic reforms has not only committed directly by political elites, but also involving the 'corrupt cells' such as brokers or middlemen who is close but not part of the party cadres and capable to manage negotiation, compromise, and transactions with other potentially benefiting parties on behalf of the elite politicians' right-hand men.

The reality of political dynamics under the democratic system subsequently meets with the rise of vibrant economic sectors born under the newly liberalized economic system in the country. In the weakly regulated market reform, the vibrant economic sector stimulates a myriad of demand for abuse of power to provide special privileges, official assistance, support, concession, and more flexible permits and regulation to survive in the new free-fight market system. Some high-profile corruption cases such as beef import and Century Bank cases have highlighted how the business actors tried to gain patronage network from political parties, government, including law enforcement officials by providing funds and supplies to get business opportunities, regulation flexibility and protection to multiply their business improvement either related to the state funded or non-state funded mega projects. In turn, the interplay relation among the actors within the patronage network system perpetuates corruption either in a small, middle, or even large-scale corruption practices.

The realities of political and economic situations have subsequently facilitated and increasingly established the emergence of vested interests which is powerful and capable to exploit political, legal, and institutional aspects to resist, stop, or even force KPK to be powerless and surrender. The vested interest groups are capable to gradually reinforce their powers to insulate themselves from scrutiny by creating political resistance, bureaucratic and legal barriers by using either legal and illegal channels which in turn expected to hinder or even stop KPK's anti-corruption efforts. However, the complexity of the actors involved within the vested interests network will determine how powerful they are in facing KPK's powers. The more high-profile parties involved

within the corruption practices, the more resources, powers and supports they can mobilize to resist KPK's works. The network of vested interests will be more powerful against KPK when it involves parties having direct power over KPK institutionally. This is the difference between the capacity of vested interest groups in the beef import corruption case study and the Century Bank case study. The coalition of tycoons, elite politicians, high-profile government officials and also elites of law enforcement agencies in the Century Bank case has posed significant barrier against KPK's investigation. Since having legal authority to directly criminalize KPK's commissioners and influenced KPK's seconded investigators, the vested interests is capable to create technocratic incompetence by exploiting some loopholes within the *lex specialist* Law No.30/2002 on KPK. Since fear of being cornered by KPK's quick moves, this group of vested interests established the best defence strategy by conducting pre-emptive attacks against KPK. Criminalization and intimidation which have been done on behalf of the law enforcement efforts is kind of the authoritarian regime's legacies which are evidently still effective to push back the reformist agents in the democratic era.

The most influential effect of the vested interest groups' moves happened when the forces which want to weaken KPK successfully meet in the same ground. KPK's experience in disclosing the Bank Century case has shown the most critical situation in which KPK was powerless in facing the vested interest groups which have direct power to exploit KPK's institutional weaknesses while the formal political actors namely political parties or parliament in general and the president were permissive and keep silent witnessing the criminalization and intimidation against KPK commissioners and employees. This precarious situation emerged as the result of the nexus of vested interest groups successfully constituting a coalition to unify their power and resources by hijacking political, governmental, and law enforcement institutions to defend their interests and also to oppose as well as block anticorruption reforms.

Based on the experiences in the beef import and Century Bank corruption cases, KPK will be able to bypass the vested interests' threats and challenges when it is supported by independent media, active civil society elements and adequate political support from the top political and governmental leader, in this case is the president. Moreover, the independent media and active civil society can be KPK's best anticorruption partners to echo public political pressures including to force the unassertive and indecisive top government leader to provide adequate protection for KPK from the vested interests' counterattacks. However, in the critical situation, political will or serious commitment of the top political or governmental leader becomes a key factor in determining whether the powers of special anti-corruption agency can be used to perform anti-corruption functions optimally or not. Hence, it is highly recommended for KPK to strengthen its partnership both formally and informally with these reformist elements in order to succeed its further anti-corruption agenda. KPK's future will highly depend on how

the political dynamics among these actors. During the deepening process of democratization and market liberalization, temptations will always come from the vibrant economic sectors to seek patronage through political, governmental, and legal channels. Without the strong determination of the political actors in parliament and government to repair the weakly regulated political, economic and legal systems, KPK's anti-corruption works will be not meaningful and deeply trapped into a vicious circle. KPK will always face intensive backlashes as the acts of revenge from those who were individually or institutionally embarrassed by KPK's previous anti-corruption actions. Besides frequently facing the threats of criminalization evidently disrupting KPK's internal and institutional stability, KPK's powers and existence were also threatened and potentially crippled by political parties' intensive manoeuvres to either openly or secretly amend the Law No.30/2002 as the KPK's basic legal forces. Attempts of the amendment have been frequently done under the pretext to reinforce KPK, but in fact merely endanger and weaken KPK. In short, KPK will perish when the political dynamics between parliament and government finds a particular momentum showing KPK's internal rottenness due to the employees' lack of integrity, lack of independency and neutrality making the attempts of amendment 'legitimate' while KPK losses public trust including the great support from the people, independent media and civil society elements.

The situation elaborated above have also confirmed several arguments of scholars, i.e. first, the implementation of democracy under the conditions of market-liberalism has often posed unanticipated outcomes which in turn affecting the quality and effectiveness of the state's anti-corruption agenda [26], [30], [21]; second, that the weakly regulated political and economic reforms will merely result in the mutually beneficial alliances among the vibrant new economic sectors, corrupt government officials and politicians with 'ferocious appetite' within the transitional period [10]. The nexus of the actors will mushroom and strengthen the powerful vested interest groups which live based on reciprocity and mutual trust within the incentive structures. These realities in both case studies have also re-confirmed that the package of a consolidated democracy which goes hand in hand with liberal market economy as an efficacious prescription for effective anti-corruption as generally believed by the mainstream [27], [7], is definitely not applicable in Indonesia.

To some extent, the findings of the two case studies are also in line with the view of [8], [9] that when the vested interests groups could hijack the political, legal, and other state's instruments which in turn also successfully build a legitimacy to arbitrarily fight against the works of anti-corruption on behalf of the law enforcement and social justice, the reform process will be confused and difficult to see the systematic interest cleavages between the 'vested interests' and the more reform-oriented interests. Nonetheless, especially based on the Century Bank case study, although the vested interest groups had mixed themselves and become an integral part of the reform actors, independent media and active civil society

elements which have been the heathiest pillars of democracy and anti-corruption agenda in Indonesia could help the society to shed light the tendency of special interest groups in the battle of political economic forces.

In relation to the effectiveness of anti-corruption and political supports, as suggested by [3], it is true that the emergence of vested interests have a strong impact on political will to address corruption. When reformist government is politically weak, resting on broad and unstable coalitions and sieged by interests in the past, vested interest groups can powerfully isolate and neutralize the weak reformers. However, again, the coalition of media and civil society in stimulating and echoing public political pressures become determinant factor in the deadlock and critical situation. The existence of political will of the top political leader in anti-corruption movement as frequently mentioned by [19], [20] is not an automatic thing. KPK's experiences prove that political will of the top governmental leader is not merely natural condition which self-entrenched within the leader's individual characteristics. In the democratized and economically liberalized but still corrupt system, political will inclined to a politically nurtured condition where the leaders' courage or cowardice in supporting the works of anti-corruption is highly depending on the constellation of interests that exists. Leadership will indeed incline to be assertive and indecisive against corruption or reluctant to support investigation over the high profile corruption case when the leadership embodies interests that require the perpetuation of corruption.

V. CONCLUSION

The stories of anti-corruption reform in the newly democratized and economically liberalized Indonesia show a mixed result. The political and economic structural transformation of the Indonesian state can successfully present several foundations on anti-corruption, but not significantly shifted the patterns of systemic and structural corruption. While corruption in Indonesia remains intertwined with politics, the success of anti-corruption operations, particularly those conducted by KPK, is also depends on the political dynamics. The more effective anti-corruption operations are perceived to be, the more it is likely invite a backlash and brazen attacks on those fighting corruption. Hence, freedom from political intervention and protection for the anti-corruption agency's staffs is critically important. However, the future prospect of corruption eradication agenda in Indonesia will always be overshadowed by the configuration of political and economic illicit interests which have successfully merged into and deeply embedded within the state's power structure. By successfully hijacking the state's political and legal instruments, the alignment of the vested interest groups is proven as capable to affect the quality performance of anti-corruption movement in Indonesia.

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