Sources of Democratic Resilience------Election, Law, Governance, Free Press, and Social Media

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I. About this Research Project

Having witnessed the chaotic development of the Arab Spring for more than four years, we seem to be learning one invaluable lesson. The breakdown of a dictatorship does not necessarily lead to democracy.

In that context, Indonesia's transition for nearly two decades from an authoritarian state to a competitive political system under a democratic regime deserves more attention. As expectations were high for even a wave of democratic transitions to break in East Asia following the Arab Spring, my research project, initially called *Asia Spring*, was focused on finding what kind of polity Indonesia had become since the Suharto regime's fall, and extracting significant implications for the rest of the region, particularly, the nations waiting for their own transformation.

In 2014, the Indonesian electorate chose Joko Widodo (widely known as Jokowi), the popular governor of Jakarta, as the country's seventh president. Since it was the first case of peaceful leadership transition in which a democratically elected president was replaced through another election, it could be said that the nation's democratization has moved a few steps forward.

Updating and expanding my previous research, this article examines how the young democracy has survived in Indonesia. In an effort to tease out sources of the democratic resilience, a close attention should be paid to the development of crucial institutions; elections, law, governance, the press and social media.

II. Electoral Democracy being Consolidated in Indonesia

Indonesia's regime transition started in 1998 when President Suharto, who had ruled the nation for more than three decades in a notoriously authoritarian manner, stepped down amid the large-scale economic and social chaos following the Asian Financial Crisis.

Among the countries that democratized in the 1990s, many of them located in Central Europe and Latin America along with South Africa and Taiwan, Indonesia has been seen as an important case with its large population, ethnic and religious diversity, and strategic geography. It is a sprawling archipelagic nation made up of more than 17,000 islands lying in between East Asia, South Asia and Oceania. It is the fourth most populous nation in the world where more than 250 million people live. Nearly 90 percent of the populace believes in Islam, but significant numbers of minorities embrace Christianity, Hinduism and

Buddhism. The country also holds together hundreds of major ethnic groups with their own languages and ways of living.[1]

Indonesia's national output per head is around $3,500 a year in 2014, which amounts to a little less than half of that of China, only about one third of neighboring Malaysia's. From the perspective of modernization theory, whereby the richer a nation gets, the more likely it democratizes, Indonesia could be an unlikely democracy.[2]

Today however, it is difficult to refute an observation that Indonesia is an established electoral democracy. People elect their leaders from president to village heads themselves, as well as their representatives for legislatures at all government levels that fill about 16,000 seats.

Since the transition started in 1998, the Indonesians have carried out four general elections and elected the nation's president three times by direct ballots. Local direct elections were also introduced in 2005, wherein regional executives like provincial governors, district heads, and mayors are chosen by voters.[3]

According to Rizal Sukma, director of the Center for Strategic and International Studies (CSIS) in Jakarta, one of the nations's most respected think-tanks, the single most important constitutional reform was limiting the presidential term to two five-year stints. For the purpose of preventing the resurgence of a dictator, that constitutional restraint is really crucial, he says.[4]

Direct presidential election has also made a positive impact on promoting electoral democracy. Until 1998, a president was chosen by the Peoples' Consultative Assembly (MPR), a one-thousand strong supra-parliament which was constitutionally the supreme organ of national sovereignty and had hundreds of unelected members appointed by Suharto.

The appointees included Suharto's sons and daughters, his cronies, and the military officers who were undoubtedly loyal to the president. With no term limit for presidency written in the old constitution, Suharto was elected seven times by the men and women, many of whom he himself handpicked[5].

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[1] Central Intelligence Agency, "The World Factbook," n.d., *https://www.cia.gov/library/publications/the-world-factbook/geos/id.html*

[2] International Monetary Fund, "Reports for Selected Countries and Subjects, "n.d.,

https://www.imf.org/external/pubs/ft/weo/2015/01/weodata/weorept.aspx?pr.x=74&pr.y=6&sy=2013&ey=2020&scsm=1&ssd=1&sort=country&ds=.&br=1&c=548%2C924%2C536&s=NGDPDPC&grp=0&a=

[3] Council of Local Authorities for International Relations, "Otonomi Daerah di Indonesia," (Tokyo: CLAIR, 2009): pp. 27-28,

[4] Author's interview with Rizal Sukma in Washington DC, 11 April 2011

[5] Kevin O'Rourke, "Reformasi," (Crows Nest NSW: Allen & Unwin, 2002): pp. 6-8

In another move to check the executive power, the position of the national parliament (DPR) is drastically enhanced to a sole institution with power to make law by the constitutional amendments. Under Suharto, the Parliament was rendered a "rubber stamp," as the old constitution granted the president the power to make statutes in agreement with the DPR and the president abused this power.[6]

The military's influence in the national and regional power structures has been gradually curtailed. Active officers don't occupy the high-ranking posts in the government and state-run enterprises, as they did under Suharto. Dozens of appointed members of the armed forces faction at the national parliament were gone.[7]

The degree of civilian control could be somewhat questionable, as the army still keeps garrisons across the archipelago as if the soldiers are occupying their own homeland. The armed forces continually own a number of lucrative "businesses" despite their pledge to transfer them to the state. Nevertheless, they are not seen so powerful politically as they used to be.[8]

Civil liberties were restored almost in full as well as political rights. Political prisoners were freed. With even a right to access to information written in the amended constitution, liberated media aggressively report on issues like corruption and compete with each other.[9]

III. Powerful Forces Emerging Through Electoral Process

In an effort to find out major changes brought about by Indonesia's democratization, it could be useful to look into some new actors who have emerged through electoral processes.

Especially, a few groups stand out in terms of their numerical abundance and unique influence.

One of them is gangsters. Most of them are currently or previously affiliated with the "Youth Social Organizations" (OKP). Those organizations were mostly established during the Suharto era and boast millions of memberships across the nation.[10]

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[6] Tim Lindsey, "Indonesia-Devaluing Asian Values, rewriting rule of law," in *Asian Discourses of Rule of Law*, ed. Randall Peerenboom (New York, NY: RoutledgeCurzon, 2004): pp. 298-300

[7] Ibid., pp. 302-303

[8] O'Rourke, "Reformasi," pp. 202-203

[9] Lindsey, "Devaluing Asian Values, rewriting rule of law," p. 301

[10] Loren Ryter, "Their Moment in the Sun: The New Indonesian Parliamentarians from The Old OKP," in *State of Authority-The State in Society in Indonesia*, ed. Gerry van Klinken and Joshua Barker (Ithaca, NY: Cornell Southeast Asia Program Publications, 2009): pp. 184-185

Take Pemuda Pancasila (PP, Pancasila Youth) for an example. Ostensibly, PP was the youth wing of Golkar, a quasi-political party and Suharto's political vehicle, which never failed to win landslide every general election conducted under Suharto. The group pledged to support the state ideology Pancasila, which appeared in the old constitution preamble and embraced such values as humanitarianism and democracy but was grossly abused by Suharto. The group fiercely defended the Suharto regime.[11]

In reality, many of its members were involved in smuggling, illegal logging and mining, gambling, prostitution, drug dealing, and extortion. They were also often mobilized in the military's clandestine operations and played a part in riots and violent clashes between ethnic and religious groups. One Jakarta-based journalist describes the organization as a "state-sanctioned crime syndicate."[12]

In a 2009 publication, Ryter quotes an insider's account that more than two hundred parliamentarians in the 550-strong national parliament were from those youth organizations, so were thousands more local assembly members.[13]

Other prominent players are oligarchs. An oligarch tries to influence and dominate national and local political economy by using massive personal riches mostly for the purpose of defending and enhancing his wealth.

Although the types of businesses through which oligarchs accumulate the wealth vary, large parts of their riches are acquired through rulers' patronage, larceny from the state, unfair trades, and illicit businesses. The individuals who belong to this category currently occupy a number of influential public offices from the head of major political parties, cabinet ministers to provincial governors, district heads, and mayors.[14]

How these seemingly undemocratic and predatory forces have risen to power in an age of democratic reform?

As the amended constitution guarantees the Indonesians nearly full political rights, hundreds of political parties have been formed, contrasting sharply with just three government-sanctioned parties that existed under Suharto. In a move to prevent further fragmentation of parties, a newly enacted electoral law stipulates that the parties have to be 'national.' To stay national, political parties are

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[11] O'Rourke, "Reformas,i" pp. 13-14

[12] Ibid., pp. 104-107

[13] Ryter, "Their Moment in the Sun," p. 187

[14] Jeffery A. Winters, "Oligarchy," (Cambridge: Cambridge University Press, 2011): pp. 155-193

See also Jeffery A. Winters, "Oligarchy and Democracy in Indonesia," *Indonesia* 96 (October 2013): pp. 7-19

required to maintain functioning branches in most of the 33 provinces and, around 500 districts and cities.[15]

It is a high threshold particularly for new parties. Since some of them have just a name, a logo and a central committee, the leaders turn to local gangsters who run the mass youth organizations. The ambitious gangsters jump on the bandwagon as instant politicians and attached their networks as the party's local offices.

After three decades of the repressive autocracy, well-organized and progressive social forces were nowhere to be seen. Under a new, competitive electoral system, political parties need reliable organizers who could mobilize voters to campaigning rallies and eventually to polling stations. The gangsters with a mass organization background are the ones that they could rely on.

The electoral law initially required candidates to be nominated by a party or a coalition of parties as they ran for executive offices, and both national and local legislatures except for the newly created senate of regional representatives (DPD). Although the law was amended so that an independent candidate could participate in a race, this prerogative boosted the parties' political and financial clout.[16]

With almost no financial assistance granted by the state, party leaders willingly recruit wealthy oligarchs to add to their coffers and even enrich themselves. In return for nominating, the parties demand candidates pay "fees." Since the parties have hardly rooted in communities, the leaders also expect the candidates to finance and run their own campaigns, even suggesting they buy votes.[17]

The parasitic party behavior has invited excessively inflationary money politics. Nevertheless, there is no shortage of the lists of hopefuls, as oligarchs calculate the purchase of candidacy would pay off if they won, expecting to exploit state assets and steer public policies to serve their own interests. Oligarchs do not hesitate buying political parties even, aiming at becoming presidential candidates nominated by their own parties. [18]

IV. A Democracy where The Rule of Law, Good Governance are Absent

[15] Council of Local Authorities for International Relations, "Otonomi Daerah di Indonesia," pp. 79-82

[16] Ibid.

[17] Author's interviews with local politicians, Makassar, 17-20 February 2007

[18] Winters, "Oligarchy and Democracy in Indonesia," pp. 18-19

In post-Suharto Indonesia, the institutions of electoral pluralism and social emancipation have been relatively well installed. On the other hand, some parts of government, which could be as important, have remained largely unreformed; the institutions of law, enforcement, and governance.

Corruption is still as rampant as it was in the Suharto era at the police, prosecutor's offices, courts, government departments and state-run businesses. The corrupt environment in the public sphere is extremely conducive to the prosperity of the predatory forces like gangsters and oligarchs, since they need to work with corrupt government officials and law enforcers in stealing from the state, running illicit businesses and being protected from prosecution.[19]

In truth, corruption was never inherently built in the Indonesian judicial culture. During the period of brief constitutional democracy in 1950's, there were well-trained and professional judges, prosecutors and law clerks, mostly a leftover from Dutch colonialism.[20]

As the first president Sukarno imposed an authoritarian regime called "the guided democracy," the armed forces, along with Sukarno, moved to weaken an independent and effective judiciary branch. After succeeding Sukarno, General Suharto completed this job and consolidated his own style of personal rule, whereby the ruler, not the law, would decide what was right and what was wrong.[21]

Oligarchy did not exist in Indonesia before Suharto, according to Winters. As Suharto tried to legitimize his regime through development, he needed "capitalists" who could kick-start international enterprises dealing with Indonesia's natural resources, agriculture and manufacturing.[22]

Shortly after assuming power in the late 1960's, Suharto gave a lucrative monopoly of importing and distributing flour across the nation to Liem Sioe Liong, an ethnic Chinese businessman that the general had closely collaborated with in an illicit fund-raising while he commanded a regional battalion. Liem quickly grew to become one of the biggest tycoons in Southeast Asia. Following Liem, a few dozen ethnic Chinese oligarchs emerged.[23]

Besides their unique business networks, there was another reason why Suharto nurtured ethnically Chinese oligarchs. While anti-Chinese sentiments were widely shared by the indigenous Malay groups, Chinese Indonesians were politically and socially vulnerable. Thus, they could hardly threaten Suharto's position despite their wealth. For Suharto's patronage and protection, the Chinese returned ample

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[19] O'Rourke, "Reformasi," pp. 150-152, 391-394

[20] Daniel S. Lev, "The State and Law Reform in Indonesia," in *Law Reform in Developing and Transitional States*, ed. Tim Lindsey (New York, NY: Routledge, 2007): p. 238

[21] Ibid.

[22] Winters, "Oligarchy and Democracy in Indonesia," p. 7

[23] Winters, "Oligarchy," pp. 160-163

kickbacks, functioned as his fund-raiser in need, and helped him enrich himself as the biggest oligarch in Indonesia.[24]

On the other hand, Suharto did not trust the indigenous oligarchs except his offspring. He suspected they could challenge his presidency if they acquired excessive wealth. Suharto steered the most lucrative deals away from the indigenous oligarchs and did not allow them to seek high political offices.

After Suharto was gone however, there was no one who could restrain those ambitious oligarchs. With the rule of law and effective governance absent, their wealth could be easily translated into political and social power. While many of their businesses were on the cusp of going bankrupt in the wake of the Asian Financial Crisis in 1997-98, some oligarchs managed to survive by bribing the judges of the commercial courts, who helped hide their assets which had been put up as collateral for the loans from the state-owned banks.[25]

The Indonesians do understand what the problems are.

In 2003, the government established an independent institution in order to tackle corruption. The Corruption Eradication Commission (KPK) is granted a power to investigate and prosecute corruption cases in a special court. The commission has indicted a number of politicians, government officials, law enforcing officers, and business people including ministers of former president Yudhoyono's cabinet.[26]

While cheered by the populace, the hatred and resistance directed toward the commission by the powerful have been fierce. In January 2015, the deputy chief of the KPK was detained by Indonesian police for a false testimony he allegedly made to the Constitutional Court in 2010. A few days before that, the KPK named a high-ranking police officer, who had been designated as the nation's next police chief, as a corruption case suspect. The agency's supporters called the detention retaliation by police and took to social media in protest.[27]

In 2012, police tried to detain another investigator of the anti-corruption agency for bribery. It was immediately after the police inspector general was questioned for bribery by the KPK. Although the investigator was not charged, the move hints that anti-KPK conspiracies have run rampant.[28]

An independent constitutional court was created in 2003 and mandated to judge whether the statutes made by politicians could be in agreement with the liberal and democratic contents of the amended

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[24] Ibid.

[25] O'Rourke, "Reformasi," p. 151

[26] *The Jakarta Post*, "Andi Mallarangeng: The Road to Resignation," (8 December 2012)

[27] *The New York Times*, "Indonesia Police Detain Deputy Chief of Anti-Graft Body Sparking Tension," (23 January 2015)

[28] Ibid.

constitution. Since this function of judicial review had never been granted to Indonesian courts before 1998, the establishment of the Constitutional Court was seen as the politicians' efforts to restrain themselves.

Since its inception, the Constitutional Court issued a few landmark decisions. In 2004, the Court found unconstitutional a law that denied the citizens previously related to the Indonesian Communist Party (PKI) a right to seek public offices by prohibiting their candidacies in elections. The decision was widely praised as a step forward in dealing with the horrifying violence in 1965, wherein at least half a million "leftists" were slaughtered following an abortive coup, and the long-standing institutionalized discrimination associated with the event.[29]

The Constitutional Court came to be recognized as transparent and capable, as well as a model for future judicial reform. However, during the two terms of the first directly elected president, Susilo Bambang Yudhoyono, the Indonesians did not witness reform trickle down to ordinary courts.

V. From Mayor to President: Jokowi's Rise

Joko Widodo (Jokowi), the current president of Indonesia, is a politician who symbolizes the nation's break from its authoritarian past. Before turning to politics, he was a furniture entrepreneur. Unlike the six presidents preceding him, he never belong to the elite hierarchy established under the old regimes, such as the military (Suharto, Yudhoyono), bureaucracy (Habibie), religious organization (Wahid), and political dynasty (Sukarno, Megawati).

Jokowi was elected mayor of Solo in 2005, an ancient, aristocratic city in Central Java, where he was brought up in poor neighborhoods. It was the first direct mayoral election held in the city. Years later, he was drafted by one of the largest national political parties, PDI-P (Democratic Party of Struggle), as a candidate for the gubernatorial election in the capital Jakarta in 2012 and won the contest.[30]

Jokowi was a popular mayor. His popularity was mainly built on the policies he implemented from city hall, among them medical assistances and scholarship programs for lower-income households. Before the gubernatorial election in 2012 however, Jokowi was a relatively unknown figure in Jakarta and his main competitor, the incumbent governor Fauzi Bowo, seemed to be invincible. When Jokowi achieved an unexpected victory in one of the largest and most prominent local elections, some journalists and scholars attributed it to his social media strategy.[31]

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[29] Simon Butt, "The Constitutional Court and Democracy in Indonesia," (Leiden: Koninklijke Brill, 2015): pp. 176-179

[30] *The Asahi Shimbun*, "Joko Shuchiji, Indonesia Daitouryousen Saiyuryokushi (*Jakarta Governor Joko, the Strongest Contender for Next President,*)" 29 January 2014

[31] Ibid.

Tapsell points to the music videos as evidence, which were created by Jokowi's supports and quickly spread through Facebook and Twitter to culture and tech savvy young voters. In one of them, the creators appropriated the UK boys band One Direction's 2011 hit "What Makes You Beautiful" to sell Jokowi's political message of reform and anti-corruption.[32]

As Indonesia ranked fourth in the world in terms of the number of Facebook users and Jakarta was named the most active city on Twitter, using social media for campaigning was effective in winning grass-roots supporters. Upon their triumphant experience in 2012, Jokowi's campaign team and volunteers repeated operations of online campaigning in the presidential election in 2014 and helped the candidate win the close race in the final tally contested by Jokowi and the former army general Prabowo Subianto.[33]

There were a few important elements in the environment which made possible Jokowi's remarkable ascendance from a mayor of a middle-sized city to the nation's president in less than ten years.

First of all, direct elections of leaders for both central and local governments have taken root. Direct elections are the most successful part of Indonesia's transition from Autocracy to democracy, and Jokowi's rise would have been rather unimaginable without them. Actually as Mietzner points out, it was his electoral victories in Solo and Jakarta that propelled him to national prominence.[34]

Interestingly, Jokowi's opponent Prabowo expressed his desire to abolish direct national and local elections including that of president. The rationale he officially stated was that carrying out thousands of elections all year long would be too costly and elections were an unsuitable import for Indonesia from the West.[35] With 47 percent of total votes cast for Prabowo, the nation was pushed to the brink of a democratic collapse, and someone like Prabowo, an autocrat-turned-electoral populist, would soon be back, Lindsey described the situation.[36]

Secondly, restored civil liberties, especially freedom of the press, mattered. Since the transition started, various media platforms have flourished with local television and radio stations, and social media growing and discussing such issues as corruption nearly freely, not fearing state interference any longer.

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[32] Ross Tapsell, "Indonesia's Media Oligarchy and the "Jokowi Phenomenon"," *Indonesia* 99 (April 2015): p.38

[33] Ibid.

[34] Marcus Mietzner, "How Jokowi Won and Democracy Survived," *Journal of Democracy* (October 2014): p.122

[35] Ibid.

[36] Tim Lindsey, "Jokowi win a narrow escape for Indonesia," *The Australian Financial Review* (10 July 2014)

The publications that had been crushed by Suharto, such as the news weekly "Tempo" came back to journalism.

Under Suharto, corruption was notorious as well. However, media were fearful that revealing the cases could invite a government crackdown, and refrained from reporting on most of them.

As stated in the previous chapters, predatory actors have ascended to power through electoral processes and exacerbated corrupt practices. Now that they would make the news, Jokowi and his team found space for a reformist politician to step into, claim to promote clean governance and win crucial elections. The strategy worked well in the 2012 Jakarta gubernatorial elections.[37]

Having broken the state control under Suharto, the media is now driven by free-market economy and basically audience decides what news is. Since assuming the office of Jakarta governor, Jokowi was closely covered by major television stations and other media, as he launched a new health care scheme for Jakarta's poor and visited the communities badly influenced by recurring floods.

It was not surprising for Jokowi, already a national media star, to quickly appear as the most popular contender among a handful of hopefuls for the 2014 presidential election. As the election nears however, the images of Jokowi turned less visible in the media owned and controlled by such oligarchs as Aburizal Bakrie. Bakrie owns Visimedia Asia, a conglomerate that includes the television stations ANTV (news and entertainment), TVOne (24 hour news), Bloomberg Indonesia (24 hour, pay-for-view, digital news), VivaNews (an online news site) and two daily newspapers.[38] Bakrie chairs the Golkar party, was openly ambitious for the nation's presidency, but eventually supported Prabowo in the 2014 presidential election.

In the run-up to the final round of the presidential election held in July 2014, Jokowi himself won supports by a couple of the media oligarchs, namely Surya Paloh, owner of Metro TV and founder of the Nasdem Party (National Democratic Party), and Dahlan Iskan, owner of the Jawa Pos Group, which syndicates more than 140 newspapers across the archipelagic nation. The news outlets, which were parts of these conglomerates, apparently reported favorably on jokowi's campaigns.[39]

Nevertheless, the battleground where Jokowi gained an edge over Prabowo was social media resources. Some of the media oligarchs either own or invest in social media platforms. Despite their initial expectations, they found contents flowing there were largely uncontrollable. It is a realm where individual citizens and volunteer groups produce and consume novel kinds of campaign material, and they were mostly tech-savvy, increasingly middle-class youth whom Jokowi have heavily relied on.[40]

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[37] Tapsell, "Indonesia's Oligarchy and the "Jokowi Phenomenon," p. 37

[38] Ibid., pp. 46-47

[39] Ibid, p. 47

[40] Ibid., pp. 39-40

VI. Future Challenges for Asia-Beyond Predatory Democracy

While the promise of the Arab Spring was still fresh and inspiring, some renowned experts on democratization theories started guessing where would be next. In 2012, their flagship periodical publication "Journal of Democracy" expected another big wave of regional democratic transition would most likely emanate in East Asia.[41]

Unlike the Arab World however, in East Asia, not a small number of nations have democratized from the 1980's on. During a few decades since then, South Korea, Taiwan, the Philippines, Thailand and Indonesia gave up on authoritarianism. Most recently, Myanmar's unexpected political opening has attracted attention from all over the world. Although the changes have materialized rather sporadically, the springtime has been in the region for quite a while and will unlikely go away soon.

From the Arab Spring, we learned that mass movements seeking individual freedom, equality and dignity have spread globally. As that perception has been shared more widely, it seems to be getting more difficult for the remaining authoritarian states, wherever they are, to survive for many more decades to come.

For the past seventeen years, Indonesia's democratic transition has progressed gradually, but steadily. Despite a number of defects sitting within the transitional polity, it seems quite unlikely for the Indonesians to turn back to an authoritarian and illiberal society.

Indonesia's experience could have some significant implications for the region and beyond, particularly in the long term.

Indonesia's democracy has dealt another fresh blow to the proponents of Asian values, who aggressively argued that liberal democracy and human rights imported from the West would not work in Asia and the Asians know better ways to govern themselves.

Since the transition, Indonesia's leaders have clearly kept their distance from Asian values. Instead, they try to identify their country with democracy and human rights in the international community.[42]

Indonesia's diplomacy has also changed. It advocated a more democratic Southeast Asia and urged the regional grouping ASEAN to come up with a new charter, which would obligate member states to uphold the principles of democracy, good governance, the rule of law, and human rights. The new charter was adopted in 2007.[43]

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[41] Larry Diamond, "Coming Wave," *Journal of Democracy* (January, 2012): p. 6

[42] Rizal Sukma, "Do New Democracies Support Democracy? Indonesia Finds a New Voice," *Journal of Democracy* (October 2011): pp. 110-123

[43] "ASEAN Charter," (Jakarta: ASEAN Secretariat, December 2007): pp. 4-6

About the same time, ASEAN created an Intergovernmental Commission on Human Rights, a mechanism to promote regional cooperation on human rights issues in Southeast Asia. Indonesia played a central role in establishing the commission.[44] In defiance of ASEAN's principle of mutual non-interference, Indonesia openly criticized a fellow member nation Myanmar for the poor record of human rights and democracy, and demanded Aung San Suu Kyi be released from the house arrest.

Along with India, one of Asia's most established democracies, a democratic Indonesia defies the legitimacy of "modernization theory," which states democracy hardly settles in a low-income country, thus requests that the intellectual framework regarding democracy and development be revisited.

In the context of policy implications, what can we learn from Indonesia's experience?

In a couple of years following the fall of Suharto, separatist and communal violence spread across the archipelago and caused the death of nearly 20,000 Indonesian citizens. In many of those conflicts, local populations were split along ethnic lines and violently confronted against each other. The fear was that Indonesia was going to disintegrate as a nation, just as Yugoslavia did as a result of the multilayered and simultaneous armed conflicts about a decade before.[45]

Indonesia's transition was no less acclaimed in the international community for restoring stability out of this chaos under democracy than for achieving democracy itself. In this context however, the newly installed local democracy played a part.

The central government introduced the far-reaching devolution policies in the early 2000's, whereby control over considerable political, financial and natural resources were transferred to district and municipal governments directly from the center. Then, direct elections of local executives followed.[46]

Local elites, oligarchs and gangsters, who had instigated violence in competing with each other for control of state resources, laid arms and scrambled for elections. Winners were given juicy public works contracts and concessions, bureaucratic appointments, land deals, and so on. Even losers were entitled to spoils. Some of them were even allowed to carve out their turfs and create new districts.[47]

Subsequently, the spoilers were taken into the electoral system rather than excluded from it. Political violence quickly subsided.

As a lesson for other nations in the region and beyond, particularly for the nations expecting their own regime changes, what worked on the ground was *realpolitik*. It was a complicated mix of such

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[44] "ASEAN Intergovernmental Commission on Human Rights (Terms of Reference)," (Jakarta: ASEAN Secretariat, October 2009): pp. 3-7

[45] Edward Aspinall, "The Irony of Success," *Journal of Democracy* (April 2010): p. 25

[46] Ibid, p. 26

[47] Ibid., pp. 26-28

democratic policies as elections, local autonomy, the division of power and resources, and considerably undemocratic practice of using spoils and patronage. In other words, political problems needed political solutions.

With Jokowi winning presidency, the newly installed electoral democracy seems to have replaced the long-standing autocracy. Nonetheless, democracy itself did not remove the predatory forces deeply entrenched in the *"ancient regime."*

There could be arguments that the rule of law and good governance are dividends of democracy and often follow a democratic transition. However, as we have seen in Indonesia's case, while the predatory forces rise to power through an electoral process, effective institutions of law, enforcement and governance hardly materialize. The reason is that those forces simply benefit from the absence of those institutions.

As another important background of the absence of the rule of law, it should be noted that justice was never done about the gross abuse of power in the past.

After stepping down, Suharto was prosecuted for illegally amassing the fortune. Later, he was acquitted on the grounds of his poor health and passed away peacefully in 2008. None of his children's business empires has crumbled. Among the military officers who were involved in massive atrocities committed in East Timor, Aceh, and Papua, presumably the most responsible perpetrators were never punished. Above all, nobody was held responsible for the mass killings of the leftists, wherein 500,000-2million civilians were slaughtered from 1965-67.

It is often the case that post-authoritarian communities are faced with complicated issues of transitional justice. They must decide whether punishing former leaders could be helpful for reform and national rehabilitation or not.

Some Indonesian observers insist that Indonesia would not have restored social peace and stability, and come this far in its democratic transition, had Suharto and other perpetrators been punished. Nevertheless, as a political culture of impunity persists, justice is hard to come by.[48]

This culture of impunity provided a background that allowed Prabowo to emerge as a powerful contender to face Jokowi in Indonesia's 2014 presidential election. In the final months of Suharto's reign, Prabowo's soldiers kidnapped at least 22 anti-government activists, with 13 of them still missing and presumably dead. He was dishonorably discharged from the army, but never indicted, and left the country for Jordan in 1998. Within three years, Prabowo returned to Indonesia and launched his political career, supported by his tycoon brother.[49]

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[48] Ibid., p. 23

[49] Mietzner, "How Jokowi Won and Democracy Survived," p. 114

While the springtime stays in the region, intuition is that the remaining authoritarian regimes in Asia, notably China, North Korea, and Vietnam where people are not even familiar with elections, will not survive, at least the way they are now. Expectations are that those nations will likely establish more open and competitive political systems eventually. But the big question is how they will get there.

According to Levitsky and Way, China, North Korea, and Vietnam belong to the groups of countries, in which stable democratization is unlikely to take place. Those group are "single-party regimes with strong states and high growth rates" (China and Vietnam), "regimes born of violent revolution" (China, North Korea, and Vietnam), along with a group of poverty-stricken weak states, another group of dynastic monarchies with oil and Western support, and a group of countries with weak ties to the West.[50]

So, paths to the first act of a regime change drama, removing authoritarian regimes, are quite elusive. In the act two however, Indonesia's experience could be referred to.

The collapse of a dictatorship could yield another dictatorship, a failed state, anarchy, and democracy as well. In order to seize opportunities for democratization, what the nations should do?

They would need to build new institutions of democracy, namely universally franchised, free and fair elections, protection of civil and political rights, and civilian control of the armed forces, as they try and steer the transitional process away from chaos. At the same time, they would be required to establish credible institutions of law, enforcement and governance, whereby corruption could be minimized and the legal system could be stronger than the most powerful political actors. As a prerequisite for desirable transformations, a flow of information, which should be as free as possible, needs to be secured from the beginning of the transition.

It is easier to be said than done. For example, the conceptions of rule of law widely differ from nation to nation, even within Asia. In Vietnam, the Party is unwilling to be bound by law, not to mention North Korea. In China, the Party and the state must act within the limits of law according to the constitution.[51]

However, practice lags behind. In order to understand the reality, it just takes recalling what happened to those brave human rights lawyers in China, who challenged the party state and demanded ordinary people's constitutional rights be upheld. Many of them had their lawyer qualifications stripped. Some were arrested and even disappeared. In Malaysia and Singapore, the ruling party uses the legal system to harass political opponents. So, it would be reasonable to presume that the fundamental question of a proper relationship between politics and law will likely remain in most countries for quite a while.[52]

To conclude, I am hopeful and optimistic about Asia's more open and democratic future. But it still holds tremendous tasks for those nations "in waiting."

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[50] Levitsky and Way, "The Myth of Democratic Recession," p. 53

[51] Randall Peerenboom, "Varieties of Rule of Law," in *Asian Discourses of Rule of Law*, pp. 16-21

[52] Ibid.