

## Old Game or New? Corruption in Today's Indonesia

NONO ANWAR MAKARIM • ROBERT N. HORNICK • WILLIAM S. COLE

**ABSTRACT:** Corruption pervades Indonesia. But among a host of concerns, should the elimination or even the reduction of corruption be top priority for the Indonesian government and international donors? The three essays in this Special Report address this question, as well as outline the sources of Indonesian corruption and some strategies for combatting it. Nono Makarim argues that donors should exert more pressure on the Indonesian government and not hesitate to wield their ultimate weapon of withholding aid. Robert Hornick maintains that in a world of limited resources, other goals, such as economic growth and stability, should come first. William Cole discusses the legacy of Suharto's "New Order," and asserts that strong political will is needed to uproot this entrenched system. All the essayists express the hope that middle-class support for the anti-corruption effort will emerge, as has occurred in other Asian countries.

### Introduction

*Amy McCreedy*

As the three-year-old democracy of Indonesia struggles with problems as diverse as break-away provinces and sliding export demand, what priority should be given to the anti-corruption campaign? And how much energy should the international community spend in pressuring Indonesia to curb abuses? These and related questions were addressed at a September 17 workshop sponsored by the Asia Program. All the panelists agreed that corruption is a major problem, a source of economic inefficiency and a hindrance to democracy and the rule of law. In a world of limited resources, however, they disagreed on both the urgency of the problem and the practicality of tackling it.

For any country, eradicating systemic corruption is an enormous task, like trying to collectively reverse out of a traffic jam. Paradoxes abound. For many individuals, to break the law is more efficient than to obey it, but corruption is disablingly inefficient for the society as a whole. Just about everyone denounces the corrupt sys-

tem and yet participates in it daily. From leaders' point of view, do you work within the current framework, or do you try to tear it down, risking anarchy for eventual order? The public is tired of waiting—but quick solutions will shortcut the very democratic process that can ensure long-term meaningful change. Unlearning the old ways can be harder than learning the new.

The stakes, meanwhile, are potentially enormous. According to Laksamana Sukardi, minister for state-owned enterprises, "unless Indonesia can get a grip on the problem of corruption, the future of the country is in peril."<sup>1</sup>

**Nono Anwar Makarim**, chair of the executive board of the Aksara Foundation in Jakarta, argues that the role of outsiders is a critical one. Makarim maintains that the World Bank, the Asian Development Bank and donor governments should go as far as to withhold aid, if necessary, to curb abuses. But "outsiders have so far consistently refused to go beyond the submission of polite memoranda addressed to Indonesian heads of state," he complains. He particularly criticizes the Japanese overseas development assistance (ODA) establishment, which (he

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writes) engages in a “hands-off” policy that goes unchallenged by a passive Japanese electorate.

According to Makarim, Indonesia is locked in a vicious cycle of corruption and is unlikely to break free on its own. The ineffectiveness of non-governmental organizations (NGOs) is a case in point. While recognizing the important work of NGOs, Makarim admits that too many are co-opted by the ruling system: “fascinated by temporary entry into the corridors of power,” they cease to fulfill their function as watchdogs. Not that Makarim is wholly pessimistic about anti-corruption campaigns. He has plenty of advice for advancing public education and creating a “united front” of NGOs, business executives and sympathetic government officials. With regard to legislation, he suggests reversing the burden of proof in corruption cases, so that guilty individuals cannot wriggle off the hook so easily. But in spite of these ideas, Makarim sees outside help as crucial in cleaning up the system significantly. Without pressure from outside Indonesia’s borders, progress will be dimly slow.

**Robert N. Hornick**, a partner in the law firm of Morgan Lewis and a consultant on Indonesian law, takes a different view. He asserts that the eradication of corruption should not be a focus of U.S. foreign policy or a condition of aid. Instead, Hornick puts forth three other near-term goals that he considers more urgent: Indonesian security, economic recovery, and the smooth implementation of regional autonomy initiatives. To meet these objectives, he maintains, a long and costly battle against corruption is unnecessary. Development and corruption *can* coincide, Hornick asserts—distasteful as it may seem, Suharto achieved stunning growth in the midst of widespread nepotism and graft. The important thing is to keep Indonesia from splintering or falling into widespread chaos and poverty.

## THE ASIA PROGRAM

The Wilson Center’s Asia Program is dedicated to the proposition that only those with a sound scholarly grounding can begin to understand contemporary events. One of the Center’s oldest regional programs, the Asia Program seeks to bring historical and cultural sensitivity to the discussion of Asia in the nation’s capital. In seminars, workshops, briefings, and conferences, prominent scholars of Asia interact with one another and with policy practitioners to further understanding of the peoples, traditions, and behaviors of the world’s most populous continent.

Hornick also presents a useful categorization of different types of Indonesian corruption and summarizes relevant legislation. He points out that Indonesian corruption law is far from paltry. Indeed, it is far-reaching and comprehensive (although vaguely worded). It would certainly be *possible* to investigate, prosecute and punish corruption severely under the current framework, Hornick writes. The problem is not lack of legislation, but insufficient implementation.

**William Cole**, director of governance, law and civil society programs at the Asia Foundation, emphasizes the role of insiders rather than outsiders in fighting corruption. Thus his essay differs from that of Makarim: “If we have learned one thing worldwide, it is the indispensability of strong and committed political leadership. The process cannot be driven from the outside by the international donor community.” The difference in emphasis between the two essays is somewhat ironic, since Makarim is an Indonesian and Cole works for an international organization. In fact, however, the two writers do not disagree as much as they seem to at first glance. Both feel that pressure for change from within *and* without is ideal, and both underscore the importance of alliances among various actors such as NGOs, businesses and international organizations.

Cole describes at length Suharto’s “New Order,” and maintains that this corrupt system is still more or less in place today. With the advent of democracy and a new political leadership, many observers assumed that the problem of corruption would correct itself. But this has not happened, and the adding of new oversight institutions, such as an independent Counter Corruption Commission, will not suffice either. In fact, for all its advantages, democracy brings new challenges. For example, corruption is now fragmented so that resource-hungry political parties and other entities compete to establish their own separate patronage networks. By contrast, the old system was at least predictable and somewhat controlled. Meanwhile, Cole asserts, Megawati’s cabinet choices appear to favor stability and the status quo.

Both Makarim and Cole caution that we must not overestimate the speed at which progress can take place, because ultimately we must await the development of a middle class that has a real stake in dismantling the patron-client system. That is what is



happening in Thailand, the Philippines and South Korea. Although Hornick does not state this explicitly, he seems to agree that a country must be “ripe” for major reform—that it must *grow* its way out of corruption. In the meantime, will even the most well conceived anti-corruption campaign be only marginally effective? Of the three essayists, Makarim seems to feel most strongly that the international community can meaningfully help along the process through concrete measures. He therefore offers more specific suggestions for fighting corruption in the short term than do the other two analysts represented in this report.

**James Castle**, president of the U.S. Chamber of Commerce in Indonesia and a commentator at the September 17 event, pointed out one area of concern that is largely neglected by the essayists—that of tax collection. Speaking from the point of view of a foreign investor, Castle complained that “the cost of ‘playing by the rules’ probably raises [a company’s] effective tax rate from 30% to 45-50%.” Castle asserted that, “If all that money really got into government coffers, there would be no budget deficit problem.” He also addressed the issue of political decentralization, and expressed hope that highly publicized legal battles between the central government and local regions will exert healthy pressure on the judicial system to improve itself.

**Peter Lewis**, professor at American University and also a commentator at the workshop, maintained the importance of distinguishing between

different categories of corruption. “Organized” corruption, as existed under Suharto, is better for society’s welfare than “anarchic” corruption, which pervades countries such as Nigeria and, increasingly, democratic Indonesia. Under Suharto, illicit gains remained within Indonesian borders, and the regime established ground rules that prevented complete chaos and allowed the achievement of broad development goals. Lewis pointed to his own work, as well as that of Andrew MacIntyre, Andrei Shleifer and Robert Vishny, in advancing such a nuanced understanding of corruption—crucial to forming a correct strategy, Lewis suggested.

All of the essays in this Special Report make for sober reading; they do not underestimate Indonesia’s problems or inflate expectations. But each offers hope for meaningful long-term progress. Corruption requires steady rehabilitation—no quick remedy exists. The Asia Program hopes that by realistically assessing the challenges, as well as presenting a variety of alternatives and approaches, these essays will contribute to a deeper knowledge of corruption and to its abatement in Indonesia and elsewhere.

## ENDNOTES

1. Laksamana Sukardi, at “Indonesia Today: Current Trends, Future Possibilities,” conference at the United States-Indonesia Society, Washington, DC, March 13, 2001.

# A Path through the Rainforest: Anti-Corruption in Indonesia

NONO ANWAR MAKARIM

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In January of this year, the Aksara Foundation<sup>1</sup> invited Dr. S. B. Judono, the head of the Indonesian State Audit Board, to present his views on corruption before a “closed” audience of about 30–40 invitees. He said, among other things, that just by examining whether government expenditures had complied with established procedures, no less than Rp. 182,335 trillion<sup>2</sup> were found to be unaccounted for.

One month later, Aksara had two adversaries face each other on one panel: Teten Masduki, chairman of the Indonesian Corruption Watch, and the much sought-after defense counsel of allegedly corrupt high officials, Otto Cornelis Kaligis. Masduki confessed to being “out of breath” (which in Indonesian connotes “being at the end of one’s wits”) from his relentless anti-corruption campaign. Indonesia, Masduki wryly observed, is the only corrupt country in the world without corrupt individuals. There are many corruption reports, but few prosecutions, and almost no convictions. Kaligis attributed his own numerous court victories to bad case preparation by inept government prosecutors—though whether the ineptitude is due to lack of skills, or simply made to order, was not clear. Surprisingly, Masduki and Kaligis agreed on one thing that would result in more convictions: reversing the burden of proof in corruption cases—that is, obligating the accused to prove his innocence.

## WHAT PROOF?

The question of what constitutes “evidence” has driven a deep wedge between NGOs and the judiciary. The cynical joke making the rounds in Jakarta on this issue involves a man caught with a smoking gun in his hand, a corpse at his feet, and a missing bullet from the gun inside the corpse. This is inadequate proof of murder according to Indonesian courts, even if 15 people have witnessed the shooting. What is additionally required is the willing,

written testimony of all 15 witnesses, under oath, that they saw the man pull the trigger and shoot at close range in broad daylight. Even then, the alleged murderer must produce a signed, notarized statement to the effect that, “. . . on that day, date and time, I did indeed shoot the victim with a handgun of such-and-such make and serial number, thereby causing his death.”

So what’s the joke? The judge dismissed the case because the gun was never registered and is, therefore, non-existent before the law.

The approach to “evidence,” already formalistic in the Continental European legal system to which Indonesia adheres, has been further refined by judicial bureaucrats. The joke, in fact, is not very original; it was first inspired by a case in the 1970s in which a judge denied a debt’s existence, notwithstanding notarized loan documents. Why? The agreement was not registered with the Central Bank, as required for statistical purposes.

## THE BURDEN OF CHANGE

On February 11, 2001, the Aksara Foundation Journal came out with a 15-page edition on corruption in Tempo magazine. The edition, which covered a wide range of issues, created a stir and shocked the public by advocating a departure from traditional anti-corruption campaigns.<sup>3</sup>

## To Catch a Thief?

Aksara made the startling observation that pursuing corrupt government officials, even in countries where legal systems have a tradition of working more or less effectively, had not produced desired results. The examples of India, Pakistan and Bangladesh were cited. In the 1980s and 1990s, a wave of prosecutions and convictions of corrupt officials swept over the bureaucracies of these countries. Three to four months later, however, their replacements were behaving just like their



predecessors. Running after corrupt officials in a thoroughly corrupt legal system like Indonesia's would only result in widespread social frustration and cynicism.

Anti-corruption movements on the Asian sub-continent during the past two decades succeeded in replacing the allegedly corrupt officials, but failed to prevent the pattern of corruption from reoccurring—mainly because the social structures remained unchanged.<sup>4</sup>

Care must also be taken that governments do not use anti-corruption campaigns as opportunities to arrest members of the opposition, in order to deflect short-term political pressure and to depose troublesome rivals.

### **Too Many Anti-Corruption Commissions?**

“This morning the Government has installed an anti-corruption team to look into the performance of the task entrusted to the anti-corruption commission of supervising the work of the anti-corruption task force previously appointed to investigate the activities of an ad hoc Government Commission formed earlier this year to look into the issue of high-level corruption among corrupt Government Officials.”

No, that wasn't the president of the Republic of Indonesia. It was the Kenyan attorney general trying to evade having to take action against corrupt officials in October 1997. Four anti-corruption commissions were installed within a span of one year.<sup>5</sup> President Suharto made an early pledge in 1970—on the occasion of installing the second in a series of toothless anti-corruption commissions—that he would lead the fight against corruption himself!<sup>6</sup>

When political pressure is high, governments deflate tension by feigning to deal seriously with corruption. Most of the time, they busy themselves setting up anti-corruption commissions, government watchdogs, ombuds offices, and wealth-inspection task forces. Governments are genuinely serious about anti-corruption measures only when they put in place five mechanisms simultaneously: institutional reform of the bureaucracy, prosecution of corrupt officials, economic reform that reduces the public sector, privatization of state-owned enterprises, and general consciousness-raising campaigns.<sup>7</sup>

### **What Civil Society?**

In many societies of the developing world, the capitalist system has only recently been introduced and is not yet widely accepted. The political stability required for it to flourish has not jelled, and states are not strong enough to enforce law and order. In these circumstances, the nation remains wedded to the familiar networks of patron-client relations as a means to distribute wealth. The anti-corruption literature calls this “political corruption”—the purchase of political stability by distributing the spoils of corruption.<sup>8</sup>

Mushtaq Khan, in a presentation at the 1997 Paris conference on corruption in developing countries, made some interesting observations about the mushrooming of NGOs engaged in anti-corruption campaigns. The generally received hypothesis is that this is a sort of delayed reaction, part of a civil society movement to improve economic governance. “Wrong!” said he.<sup>9</sup> The base of these activist groups does not support civil society as the concept is understood in Western liberal thought. “Civil society,” in the original meaning of the term, will only emerge in developing countries when economic growth is sufficiently high to usher in a new class of professionals engaged in the service sector. It is this new class that is expected to rise up against the patron-client system. That, according to Khan, happened in South Korea and Thailand. It has not happened in India, Pakistan, or Bangladesh. Such a professional class has not appeared in Indonesia either. Preliminary results from a diagnostic study on corruption in Indonesia indicate that both households and business—while wholeheartedly condemning corruption and prescribing the severest punishments to those proven guilty of it—nevertheless fully participate in the favor-trading game.<sup>10</sup> The results of this study point toward two mutually reinforcing conclusions: a feeling of powerlessness and the fear of reprisals.

As with most Indonesian cabinet ministers, some leaders of NGOs have no track record of institutional success in their private endeavors. Few among them are able to show independently achieved milestones either in politics, business or social activities. Coming from the peripheries of the domestic polity, therefore, NGO leaders tend to be fascinated by temporary entry into the corridors of power, and gratified when those at the center lend ears to what



they have to say or invite their opinions. This “periphery mentality” inclines towards the formal, rather than the substantive, view of what constitutes success in NGO activities. In such a setting, there is a high risk that NGO leaders see their organizations as mere stepping stones to greener pastures within the polity. NGOs then become the new perpetrators of the system, demanding to be coopted and exacting a price for submitting to authority.

In this regard, it is understandable, though still regrettable, that donors have shown little interest in strengthening the institutional bases of these NGOs. The donors disburse their support of good governance efforts overwhelmingly from an auditor’s perspective. That is what operating in a totally corrupt environment has done to donor organizations.

### **Curing Victim Dyslexia**

In developing countries, the general public has traditionally viewed corruption as something removed from itself. When criminal activities get exposed in the media, the unfortunate victim is always “the other guy.” When corruption is discovered, it is always somebody else’s money being stolen. It is the government that is being robbed; it is high-level officials who are being bribed by foreign or domestic companies. The crime, the criminal and the victim are seen as parts of a drama unfolding somewhere behind the TV screen, distant and apart from the viewer.

Anti-corruption campaigns have got to shift their emphasis from the “crime” approach to the “victim” approach. When government money gets stolen, it is money that could have been used to bring safety to the streets where people drive, walk, and breathe. Or it could have been used to study dengue fever and prevent further loss of life by families already victimized by the disease. When contractors bribe government project managers, they then have to raise fees and prices for services and products, in order to recoup the payment. Eventually, it is the consumer who must pay. When tax rates are raised, the public is financing corrupt officials. When services become costlier, the customer is reimbursing companies for bribes to government employees. If flooding occurs in city streets, if stoplights are dead for weeks, if garbage piles up for days, if electricity and telephone failures go unrepaired, then the public must make private payments to get the help it requires, thereby shouldering its share of the burden of corruption.

### **Working with the “Enemy”**

Perhaps the most difficult challenge for anti-corruption activists to accept is the need to cooperate with business and government. Their initial response is one of indignation at the prospect of victims working with “criminals.” However, a united front with business and government will help NGOs succeed in their anti-corruption activities. Clearly, there are government officials who have been making a sincere effort to introduce sound managerial practices and financial controls in state-owned businesses.<sup>11</sup> Moreover, preliminary results of a national survey conducted by the Partnership for Governance Reform in Indonesia show that businesses are prepared to pay significantly higher taxes to rid themselves of the obligation of paying bribes.<sup>12</sup> Businesses clearly dislike having to compete with each other not only in such factors as entrepreneurial skill, but also in the size of their bribes. Certainly, some form of cooperation between these groups could broaden the anti-corruption front against the formidable forces lined up against good governance and change.

### **THE FATHER PROVIDES AND PROTECTS**

Indonesia will remain unstable for quite some time.<sup>13</sup> This alarming prediction follows from an examination of the two-prong strategy employed by Suharto to maintain stability in the country during the three decades he was in power. One of Suharto’s measures was to install a national patronage network that covered the entire country like a comfortable blanket. This network was financed from extra-budgetary sources maintained through an intricate and far-flung system of corruption. State enterprises channeled huge, unaccounted for sums to Golkar, the government party.<sup>14</sup> The party, in turn, distributed the bounty even to the lowest and smallest units of the government bureaucracy, including village headmen.

Indonesia’s defense budget was the smallest in Southeast Asia. The official budget, however, was just a tiny part of the overall budget. The rest came from Suharto himself, through the State Secretariat. From Suharto came money to purchase F-16 fighter planes, Scorpion tanks, and Rapier missiles. Thus, the nation’s leader competed with the state for citizens’ loyalty, just as a company owner does for



employees' loyalty. Such is the tradition in these parts of the world. The abstract "state" is less familiar than the "father" figure who provides for and protects his flock.

Money used by Suharto for his "personal" largesse came from the many private foundations that he maintained. These were funded through informal taxes and contributions from the many grateful beneficiaries of monopolies and easy credits obtained through his favour. In the later years of his regime, Suharto raised the income tax rate and had the additional revenue transferred to his foundations' accounts.

If systemizing patronage was the first prong in Suharto's strategy to maintain stability, the second prong was protection of that system. For example, when the long-reigning head of the national oil company could not account for a large amount of the country's hard-earned foreign currency, he was merely relieved of his job. When efforts to reform state enterprises were successful, and pain was felt by "clients" of the system—military and civilian functionaries with positions in state-owned businesses—Suharto's cabinet simply rescinded the measures.<sup>15</sup> He did set up five anti-corruption commissions, but these were to palliate the erratic protests of students; no significant prosecutions resulted from any of them. Nobody squealed, because everybody was in on it. It is this corruption-based stability that is now being challenged by the emerging reformist movement in Indonesia, both in regard to secretive non-budgetary expenses and to the rule and enforcement of law. Any disturbance to the structural balance of the corrupt system is bound to cause disruption—hence a prediction of long-term instability. Such is the nature of change.

### WHAT IS TO BE DONE?

There is the bureaucracy, and there is the military. Together they placed the leader, not the state, at the center. To complete the semblance of a representative democracy, there is the government party. These three elements—the bureaucracy, the military and the government party—constituted Suharto's polity. Any dissonance inside or outside that polity was dealt with initially by cooptation. If that failed, the center threatened force, but always through hints, never through clearly expressed instructions.

Indonesia has remained the imperfect model of Weber's patrimonial state. Such states, by definition, never change from the inside. Change is more likely if the "inside job" is complemented by pushes and pressures from the outside. And that is where the biggest anti-corruption problem lies. Outsiders have so far consistently refused to go beyond the submission of polite memoranda addressed to Indonesian heads of state. The situation is unlikely to change much within the foreseeable future.

Indonesia's economy is driven to a significant degree by loans from three major donors: Japanese official development assistance (ODA), the World Bank, and the Asia Development Bank (ADB).<sup>16</sup> Of these, the Japanese are easily the largest contributor. Knowledge of heavy corruption associated with projects seems to be evenly spread among the three, but the Japanese ODA establishment seems to care least about it. One explanation is that in countries with a relatively passive electorate, such as Japan, the disbursement of aid excites little interest. Indeed, Japanese citizens do not generally seek into where and how tax money is spent. Consequently, ODA officers are happy with a "hands-off" policy, once loan documents are signed, aid has been disbursed, and any ties with Japanese suppliers, engineers, and consultants have been established. This attitude is more or less emulated by the other donor agency dominated by Japan, the ADB. For instance, as reported in the local media, the conditions of a recent annual loan allocation agreement did not contain an anti-corruption or good governance clause. The agreement instead emphasized that investment laws should be clarified, and that the number of sectors hitherto closed to foreign investments should be reduced sharply. In regard to the World Bank, it has for some time made the requisite noises about corruption in the projects it finances, but has so far stopped short of using the ultimate weapon of withholding aid.

There may be multiple reasons why donor agencies are reluctant to resort to their ultimate weapon. They are certainly afraid that borrowers may retaliate by not repaying debts. The larger the outstanding debt, the more serious the concern. It is also said that donor agencies have been burnt badly in Africa, are little familiar with lending practices in Latin America, and have not been able to go to India due to the blockade (now lifted). These factors have

made Indonesia the lenders' favorite. After all, one does not want to irritate borrowers of choice with pep talks about corruption. Finally, the very reason for donor agencies' existence would be called into question if matters came to a head with such important borrowers as Indonesia. In short, developing countries with successful anti-corruption campaigns to raise public awareness will face a difficult future. No matter how effective the new, multifaceted approach to reducing corruption may seem, no matter how good the "inside job" may look from the outside, the missing element of outside pressure may end up stunting the movement's growth. Outside pressure will certainly create hardship for large segments of the population and make life difficult for the elites. However, research has shown that it is in times of trouble that the system is most receptive to reform.<sup>17</sup> Therefore, outsiders should carefully balance between sticks and carrots. Otherwise, the narrow path cut by the domestic reform movement through the corrupt system might be reclaimed by its former master, like a footpath left unattended in the rainforest.

## ENDNOTES

1. The author chairs the executive board of the Aksara Foundation, a non-governmental organization dedicated to informing and alerting the Indonesian public on pressing problems in a rapidly changing society. The Foundation conducts research and disseminates information and publications to the public and to policy makers.
2. The equivalent would be US\$20.3 billion, at an exchange rate of Rp.9,000/US\$1.
3. The issues were dealt with at length at the OECD-UNDP Conference on Corruption and Integrity Improvement Initiatives in Developing Countries, October 24-25, 1997.
4. Mushtaq H. Khan, "The Role of Civil Society and Patron-Client Networks in the Analysis of Corruption," paper presented at the Paris OECD-UNDP conference, October 24-25, 1997.
5. Alan Doig and Stephen Riley, "Corruption and Anti-Corruption Strategies: Issues and Case Studies from Developing Countries," Paris OECD-UNDP conference, October 24-25, 1997.
6. Theodore M. Smith, "Corruption, Tradition and Change," unpublished paper, 1970.
7. In the Suharto era, no less than five anti-corruption committees were installed: one in 1957, two in 1970, one in 1977, and one in 1982. *Daily Kompas*, March 15, 2001.
8. Khan, "Role of Civil Society."
9. *Ibid.*
10. *National Survey*, the diagnostic study initiated by the Partnership for Governance Reform, October 2000-May 2001.
11. Ahmad D. Habir, "Corruption and State Enterprises in Indonesia," to be published this year in a forthcoming book on corruption in Indonesia by the Partnership for Governance Reform.
12. *National Survey*.
13. Takashi Shiraishi, presentation at the Aksara Foundation, July 30, 2001.
14. Habir, "Corruption and State Enterprises."
15. *Ibid.*
16. The following is from Paul McCarthy, "Corruption in Indonesia's Foreign Aid Programs: Naivete, Complacency and Complicity within Donor Agencies," to be published this year in a book on corruption in Indonesia by the Partnership for Governance Reform.
17. Habir, "Corruption and State Enterprises."





# A Foreign Lawyer's Perspective on Corruption in Indonesia

ROBERT N. HORNICK

This paper is divided into three parts. First, a summary of anecdotal evidence indicating that corruption in Indonesia is indeed profound and widespread. Second, an overview of Indonesia's quite considerable anti-corruption legislation. Third, my assessment of the implications of the foregoing for U.S. policy. I will suggest that, as repulsive and relentless as corruption in Indonesia undoubtedly is, and though we can hope that the Indonesian people will resolve to rid themselves of this scourge, the United States should not make eradication of corruption a cornerstone of our policy or a condition of our aid.

## THE UBIQUITY OF CORRUPTION

There is much anecdotal evidence indicating that corruption during the Suharto era was, and in the post-Suharto era continues to be, ubiquitous in Indonesia—despite a formidable array of legislation (summarized below) prohibiting it, and notwithstanding several successful prosecutions of corrupt officials both during and after Suharto. Corruption manifests itself in many ways, including the following.

*Grease payments:* small bribes, gratuities and other benefits provided to low- and middle-level bureaucrats to procure basic government services and protections, such as obtaining official documents, subscribing for telephone and electric services, registering land titles and mortgages, getting visas and exit permits, clearing customs, and collecting one's government salary.

The following account of a car theft victim trying to report the theft is typical of this kind of petty corruption: "I needed a form from the police verifying that the car was, in fact, stolen. Negotiations dragged on. A police captain wouldn't part with the form for less than US\$300, somewhat above the cost of the insurance premium. Not being particularly attached to the car, I balked at the price. Many months later, the captain tired of the wait. Suddenly



my car, minus a stereo and the air-conditioning unit, was 'found' in the police department's parking lot. I was free to take it."<sup>1</sup>

*Subverted legal system:* the routine bribing of judges, prosecutors and court officials.

In 1995, a retired Supreme Court justice alleged that half of all judges in Indonesia took "hefty pay-offs" to fix trials.<sup>2</sup> In 1999, a senior litigator in Jakarta said that up to 90% of court cases were decided by bribes to judges, prosecutors and other court officials.<sup>3</sup> Last July, a trial judge who reportedly refused a Rp. 20 billion (US\$2 million) bribe to fix a criminal case was gunned down on a Jakarta street after convicting the offeror. The offeror is a suspect in the murder.<sup>4</sup>

*High-level executive branch payoffs:* to procure licenses, contracts and the like.

In 1992 a trial court in Singapore found that, between 1972 and 1976, the (then) second-in-command person at the Indonesian State oil company was paid bribes by a German contractor in the amount of DM54 million (approximately US\$21 million at then applicable rates of exchange) to procure a contract for the construction of a steel mill.<sup>5</sup> In 1997, a U.S. oil company agreed to pay \$300,000 to settle a case filed against it by the U.S. Securities and Exchange Commission (SEC), in which it was alleged that an agent of the company's Indonesian subsidiary had

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engaged in systematic bribery from 1989–92, ranging from “monthly \$1,000 disbursements spread among clerks at the Indonesian State oil company . . . to a \$120,000 payoff to a government auditor in exchange for a favorable tax ruling.”<sup>6</sup>

*Indispensability of good political connections:* to improve one’s chances of “securing the plum deals, obtaining preferential regulatory treatment, and escaping inconvenient contractual obligations while deflecting the ‘predatory’ trading practices of those who are well connected.”<sup>7</sup>

It was said to be “virtually impossible [during the Suharto era] to conduct business in Indonesia without dealing with Suharto, his family and their business cronies,” comprised mainly of a small group of personal friends of Suharto who got their start in business through preferential treatment from friends in government.<sup>8</sup> At the height of their power, the Suharto family reportedly had significant equity interests in over 500 Indonesian companies operating in virtually every major sector of the economy, including oil and gas, forestry and plantation, petrochemicals, mining, banking and financial services, property, TV, radio, publishing, telecommunications, hotels, toll roads, airlines, automobiles and power generation. Moreover, they owned or controlled 3.6 million hectares of real estate—an area larger than Belgium.<sup>9</sup>

## ANTI-CORRUPTION LEGISLATION

Indonesia had during the Suharto era, and continues to have, a substantial body of legislation proscribing corruption and corrupt acts. Such legislation falls, broadly, into two categories: (a) prohibitions on the making of illegal payments and (b) prohibitions on the receipt of illegal payments. The burden of the former falls mainly on the private sector; the burden of the latter on the public sector. There are also laws in the post-Suharto era making it a crime to engage in collusion or nepotism as well as corruption, and new mechanisms have developed for investigating and exposing corruption.

### The Suharto Era

There were three principal sources of law prohibiting corruption during the Suharto era:

- the Indonesian Criminal Code;
- Law No. 3/1971 regarding the suppression of criminal corruption; and
- Law No. 11/1980 regarding bribery.

In substance, this legislation made it a crime, punishable by fine and/or imprisonment, for any person to do, or (with a few exceptions) attempt or conspire to do, any of the following:

- wrongfully to enrich oneself or others in a manner harmful to the State’s finances or economy;
- make a promise or gift to a civil servant because of such person’s office or position;
- make a promise or gift to a civil servant for the purpose of inducing him to act or not act in a manner contrary to his authority or rewarding him for having so acted or not acted;
- make a promise or gift to any person not otherwise proscribed by law to induce such other person to do or not do something in the performance of his duties which would abuse his authority or contravene public policy;
- receive any proscribed promise or gift, knowing or having reason to know of its illegality; or otherwise misuse any authority, opportunity or facility which one had by reason of one’s office or position, in order to enrich oneself or another.

The legislation also authorized confiscation of movable and immovable property of a corrupt person to the extent corruptly obtained or used in the commission of a corrupt act, and provided for payment of compensation to the State in an amount equal to the value of any property corruptly obtained.

### Post-Suharto Era

In the post-Suharto era, Law No. 3/1971 was replaced by Law No. 31/1999 regarding the suppression of criminal corruption. In addition, a new law, Law No. 28/1999, prohibiting so-called collusion and nepotism, was enacted. The new legislation is similar in substance to prior law, but expands prior law *inter alia* in the following respects:

- explicitly extends criminality to acts of companies as well as individuals, and authorizes punishment of managers and directors for a company’s corrupt acts;
- provides for longer prison terms and larger fines, and authorizes the death penalty for certain corrupt acts committed during times of national emergency (including fiscal and economic crises);
- in the case of corrupt companies, authorizes revocation of the company’s licenses/permits and



other facilities as well as suspension of some or all of its business for up to one year; and

- broadens the prosecutor's investigative powers.

The new legislation also prohibits State employees from engaging in collusion or nepotism, and makes the commission of such acts punishable by fine and/or imprisonment. Collusion is defined as a State employee wrongfully conspiring or cooperating with another State employee or private person to harm an individual, society or the State. Nepotism is defined as a State employee wrongfully placing the interests of his family or cronies above the interests of society, the people or the State.

It should be clear from the foregoing that even during the Suharto era, Indonesia had comprehensive and far-reaching anti-corruption legislation on the basis of which corruption at all levels could have been investigated, prosecuted and severely punished. Indeed, if there is a criticism to be made of the formal law, it is that its definition of corruption is, at times, so broad as to be unconscionably vague. For example, the crime of wrongfully enriching oneself in a manner harmful to the State, which is now punishable in some circumstances even by death, is disturbingly imprecise, and could be a potent weapon in the hands of unscrupulous prosecutors with which to hound the innocent or harass political enemies.

This disposition towards broad, vaguely worded crimes has been taken even further in the post-Suharto era. The crimes of collusion and nepotism, for example, are breathtaking in their vagueness and reach.

### Other Developments

Two other developments in the post-Suharto era that can potentially deter corruption should be noted. First, there has been a substantial increase in freedom of the press. The press has used this freedom to investigate, expose and publicize a number of corruption cases, thereby highlighting the problem and putting additional pressure on the authorities to prosecute. Second, pursuant to Presidential Decree 44/2000, Indonesia has established a National Ombudsman Commission. The Commission has received many hundreds of complaints of alleged corruption, including a substantial percentage (more than one-third) involving the judiciary. This, in turn, has led to a number of prosecutions.

### Foreign Legislation

Finally, it should be noted that Indonesia's comprehensive framework of anti-corruption legislation is, to some degree, supplemented by the anti-corruption legislation of various foreign countries. The Foreign Corrupt Practices Act of the United States, for example, prohibits U.S. nationals and companies, as well as foreign agents of U.S. companies, from offering, paying or promising to pay anything of value to any foreign official, political party or candidate for the purpose of influencing an official act of that official, inducing the official to act or not act in violation of his official duty, or inducing the official to use his influence to obtain or retain business for the payor. (There is an exception for "grease" payments made to expedite "routine government action" such as procuring visas, providing police protection and loading and unloading cargo.)<sup>10</sup>

### POLICY IMPLICATIONS

Despite its comprehensive anti-corruption legislation, a newly vigilant press and the establishment of an Ombudsman Commission, Indonesia remains a very corrupt place. What are—should be—the policy implications for the United States?

As I see it, the United States should have three overarching, near-term goals for Indonesia.

- First, a secure Indonesia, without which a just and prosperous society is not possible;
- Second, restoration of the Indonesian economy, and regeneration of sustained economic growth; and
- Third, smooth implementation of Indonesia's newly adopted regional autonomy initiatives.

I am not convinced that the eradication of corruption is essential to achieve any of these goals. Regarding regeneration of economic growth, for example, it is a fact that, for twenty-five years preceding the economic crisis of 1997-98, Indonesia had one of the world's highest growth rates, despite deep-rooted and widespread corruption. How this could be so is not clear, although it is now the subject of study, and some provocative theories are starting to emerge. See, for example, the work of Andrew MacIntyre and Peter Lewis. But, for the time being, the evidence is that economic development and corruption can co-exist in Indonesia. Accordingly, my principal policy point is that eradi-



cating corruption should not be the cornerstone of U.S. policy or a condition of U.S. aid.

This is not to say that corruption is unimportant or harmless. There are significant social, political and economic costs to it. I am only saying that, from a U.S. policy perspective, there are priorities even more urgent.

Of course, we must always insist that our aid not be diverted for corrupt purposes; and we should continue to prohibit our own nationals from acting corruptly, as the Foreign Corrupt Practice Act now does. (Our stature and credibility in the world require that we hold ourselves to this higher standard.) But beyond that, at the policy level, I would otherwise “lay low” on the subject of corruption, and concentrate American resources for Indonesia on other areas where, in any event, we are more likely to be able to make a difference.

## ENDNOTES

1. A. Schwarz, *A Nation in Waiting: Indonesia in the 1990s* (Boulder: Westview Press, 1994), 135.

2. *Jakarta Post*, February 10, 1995.

3. Reuters, October 1, 1999.

4. *Jakarta Post*, August 1, 2001.

5. *Pertamina v. Kartika Ratna Tahir*, 1 SLR 735 (1993).

6. *Dallas Morning News*, February 28, 1987.

7. A. MacIntyre, “Investment, Property Rights and Corruption in Indonesia,” forthcoming.

8. Jared Levinson, 18 *Ariz. J. Int'l & Comp. L.* 103, 112 (2001).

9. MacIntyre, “Investment.”

10. An interesting and difficult issue posed for U.S. companies by Indonesia's anti-corruption legislation is whether such legislation is so broad that even grease payments otherwise allowed by U.S. law are prohibited by Indonesian law. Arguably, the general prohibition on promises or gifts made to a civil servant because of his office or position would be broad enough to proscribe even grease payments, although some Indonesian commentators and practitioners take a more restrictive view and contend that mere grease payments are not unlawful for the payor to make.



## Roots of Corruption in the Indonesian System of Governance

WILLIAM S. COLE

Despite the tremendous rise in public expectation regarding counter-corruption reform, corruption continues to be as deep and persistent a problem today as it was before President Suharto's fall in the spring of 1998. This is because systemic corruption is a byproduct of governing institutions that were reconstructed and staffed from top to bottom to serve as an integral part of the patronage system of Suharto's "New Order." Most aspects of that system are still in place and are now increasingly being put to the service of new political masters. Corruption is now so deeply entrenched and exacerbated by today's multiparty competition that it probably cannot be controlled or even significantly reduced by a change in top political leadership, or through any combination of piecemeal changes in laws or specific practices. Nor will the grafting of new oversight institutions—such as the planned Counter Corruption Commission—onto the present arrangement make more than a marginal difference. Each of these steps, and others, may be important *elements* in a comprehensive counter-corruption strategy, but none alone is sufficient.

There is often inadequate international appreciation of the depth of the institutional, and ultimately political, obstacles that must be overcome if corruption is to be significantly reduced in Indonesia. A realistic assessment of the prospects for reform requires a look back to the nature of the New Order governmental system constructed in the 1970s and early 1980s, and to how it evolved in subsequent years as Suharto's family effectively established rents on nearly every major commercial opportunity in the country. Such an assessment also requires understanding of how corruption channels have been fragmented, and the difficulties of financing intense multiparty competition in the new era of *reformasi*.



### A POOR INHERITANCE: THE ADMINISTRATIVE INSTITUTIONS OF THE NEW ORDER

Systemic corruption involves more than a lack of integrity on the part of individual officials. It indicates fundamental flaws and weaknesses in a country's governing institutions. Robert Klitgaard, in his now classic book, *Controlling Corruption* (1986), showed how corruption thrives where decision making authority is concentrated in the hands of a few unaccountable officials; an overstaffed bureaucracy is underpaid and has too much discretion; administrative and legal sanctions are nonexistent or ineffective; and credible external "watchdog" organizations, including the press, do not have access to information. All these elements characterize the administrative bureaucracy that makes up the core of the Indonesian state.

Indonesian bureaucratic institutions today still retain elements from the Dutch colonial administration, which ended over a half century ago. During the early parliamentary years of the Republic, the professionalism and integrity of administrative offi-

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cials remained more or less intact. In 1958, however, Sukarno established “Guided Democracy” and reinstated the original 1945 Constitution, which provided justification for a strong, centralized presidential command structure. Paralleling this development, senior military officers were placed in key positions in both the administrative bureaucracy and in the newly nationalized industries. While the early Republic was no stranger to high-level corruption, these changes fundamentally altered both the character of Indonesian governance and the pattern of corruption abuses by creating a more corporatist configuration in the service of top political leadership.

In the aftermath of the 1965 coup attempt, Suharto established the so-called New Order based on the highly centralized presidential system inherited from his predecessor. Suharto still faced important constraints. For example, in the chaotic aftermath of the late Sukarno period, popular legitimacy of the New Order rested on the promises of *security* and *development*. *Security* meant, in part, an end to challenges to the authority of often corrupt traditional local elites, who had faced years of intense pressure—especially on land reform—from the radical nationalist and communist left. Security also meant more military officers in key management positions throughout the administrative bureaucracy. *Development* initially meant economic stabilization, which was achieved in the first years of the New Order through massive assistance from the IMF, World Bank, USAID and renewed foreign investment.

Corrupt practices began early in the New Order. The earliest large-scale abuses involved monopolies in the import of cloves and the import and milling of wheat flour. By early 1973, public outrage over both official corruption and Japanese foreign investment nearly ousted Suharto. Out of that experience emerged a new vision of how Indonesia would develop—as a highly nationalist, inwardly focused regime in which the economy, polity, and national culture would be even more controlled under the centrally managed corporatist state, itself dominated by a tight circle of patronage and loyalty under the direction of the president. Under this vision, the state would assume management of nearly everything from enforced acceptance of new Green Revolution rice-growing technologies to fertility control in rural Javanese villages. The OPEC oil

price rise of 1973 provided the country with a massive new source of revenue that suddenly and dramatically made implementation of this authoritarian corporatist vision possible.

The extension of central authority under this new vision of a “development state” required a massive expansion of the state bureaucracy. Between the mid-1970s and the mid-1980s, the core bureaucracy grew from fewer than 500,000 to at least three million. Many of the best and brightest among young Indonesians in that period joined the bureaucracy. The legal foundations and budgetary procedures, as well as the bureaucratic culture that emerged during the next few years, virtually guaranteed that bureaucratic corruption, both petty and grand, would pervade. But corruption would also be organized and contained within limits that would not seriously threaten broader security and development goals.

Bureaucratic corruption under the New Order became systemic and routine, and was built into the very fabric of governmental institutions. A few brief examples illustrate how this worked:

*Lack of transparency in official wage compensation:* The system obscures income streams for government employees. While the basic structure of rank and pay scales is relatively straightforward, the organization of special allowances for public servants at all levels is more complex. More important, the state budget is divided into “routine” and “development” expenditures—with as much of the budget as possible moved onto the development side to uphold the public perception that the government’s main commitment is “development.” Development expenditures are budgeted and expended through official “projects.” In fact, a large portion of the actual income (perhaps one half, based on anecdotal evidence) of all officials comes through such projects, either *legally* in the form of “incentives,” such as per diems, cars, and pay for meeting attendance, or *illegally* through theft of project resources or kickbacks from government contractors. In fact, officials at all levels are adept at designing annual budgets with projects as milch cows, used to expropriate resources in one way or another.

*Extraction of patronage resources:* Like most other administrative systems worldwide, the Indonesian system is based on “rules and compliance” rather than on “incentives and performance.” Thus, the capacity for innovation and efficiency is sacrificed.



But, in theory at least, a “rules and compliance” based system—especially where educational levels are low—restrains self-serving behavior by ensuring that local officials merely implement plans that were designed by experts at the center. In fact, as the New Order’s top managers became increasingly entrenched, the system became a well-oiled mechanism for extracting patronage resources. Some of these resources went to supplement income, and therefore to consolidate the loyalty of the administrative bureaucracy. However, a significant portion of these funds were used by the presidential palace to sustain support and buy off potential opponents. Corruption by individual senior officials made for dramatic scandals when exposed, but such featherbedding was secondary to a deeply entrenched, largely hidden system of “off-budget” political financing that was directed toward advancing the goals of the Suharto regime. Explicitly, the system was designed to provide stability and to steadily improve the lives of ordinary people. Implicitly, it ensured the lion’s share of power and wealth for Suharto and other elites.

*Routine bribery for collective bureaucratic ends:* There are few sanctions against routine corruption in Indonesia. The confusing thicket of regulations, restrictions, and levies built up under the New Order is still largely in place today. The impossibility of full compliance opens tremendous opportunities for corruption. In a remarkably efficient system of routine bribery, citizens must deal with semi-official middlemen and fixers, who keep civil servants at arm’s length during money transactions and ensure public confusion over what is an official charge, what is the fixer’s fee, and what is the bribe. Though illegal, this system is far from being negatively sanctioned. It simply spreads compensation collectively within any given agency, and, as widely noted by Indonesian observers, is relatively orderly and efficient.

The New Order’s integrated system of *administrative* and *political* control helped to obscure the boundary between the two. It is hard to tell where the interests and actions of Suharto’s top lieutenants ended and those of the professional administrative bureaucracy began. Under the New Order, mandatory membership in the civil servant association (KORPRI) and, until 1998, in the Suharto regime’s *de facto* political party, Golkar, ensured that the

administrative bureaucracy would not develop professional independence from political leadership. The New Order state was a well-ordered patronage network that existed external to and independent of the state institutions that it created and controlled. That network, which controlled life’s opportunities for all participants in the governing system, required a tremendous flow of resources to keep running effectively. A complex system of off-budget transfers and asset pools involving military businesses (mostly phased out by the mid 1980s), large scale infrastructure construction kickbacks, access to national resource concessions, and the president’s closely managed “foundations” kept this system working.

While enormously corrupt, the New Order system of governance, propped up by oil revenues, did yield steady improvements in the quality of rural life through the 1970s to the mid-1980s. In 1986, however, the dramatic fall in oil prices left the country facing a major budgetary shortfall. Over the next couple of years, the Suharto government made an abrupt and impressive about-face, embracing privatization and deregulatory reforms that rapidly moved the manufacturing sector from an import substitution industrialization (ISI) model to an export oriented industrialization (EOI) model, while at the same time freeing up agricultural prices and reducing subsidies. These changes withdrew monopoly licenses that Suharto had passed out as patronage primarily since the late 1970s. By the early 1990s, the only heavily protected industries were those directly linked to the president’s immediate relatives and closest cronies. New export-related opportunities opened up in plantation agriculture (such as palm oil) and export manufacturing (in such areas as furniture, plywood, and garments). Banking was also deregulated, and nearly all the large well-connected Indonesian conglomerates opened their own banking ventures. Foreign investment poured in, but lack of effective regulatory enforcement mechanisms and of a sound commercial law system drove corruption to new heights. Uncertain foreign investors tended to seek the security of partnering with the president’s family or closest associates. By the mid-1990s, the presence of Suharto’s children was felt in nearly every major sector, where they seized most new economic opportunities—often in tight competition with one another.

At the highest levels, senior administrative officials were expected to provide protection and opportunity to the Suharto family and to crony enterprises. In my experience, there was at the working levels within the administrative bureaucracy a great deal of dismay and grumbling at the rapacious character of the large conglomerates (though the sharpest criticism tended to focus on Chinese-owned firms). All the same, corrupt practices—entrenched, systematic and built into the administrative systems—were viewed as the normal state of affairs.

By the end of the 1990s then, two closely inter-related systems of rent-seeking and patronage generation had come to exist side by side. The first involved routine bribery and official manipulation of budgets and government projects in a highly state-dominated economy. The second centered on the president's own family and closest cronies, and fed off the still incompletely liberalized and poorly regulated market economy.

#### REFORMASI: NEW PLAYERS WORKING THE OLD CORRUPTION CHANNELS?

Suharto's quick and chaotic departure signaled an end to the relatively tightly managed system of patronage generation. The Habibie government was in many ways a last-gasp continuation of the New Order, though the economic crisis and popular outrage put a temporary crimp in corrupt practices. Still, serious accusations of corruption against both Golkar and Habibie's family continued to surface through that brief period.

Abdul Rahman Wahid's administration was the first partial attempt to cut loose from the old ways of governing, although efforts to bring to justice key perpetrators was minimal. Under President Wahid, the old system was largely separated from its "proper" mooring under top political (presidential) management. Even so, Wahid and his associates in the National Awakening Party (PKB) were accused of various abuses—nothing on the scale of the Suharto years, but still devastating when exploited by opponents amid inflated popular hopes for reform.

Megawati may be able to at least partially reconstruct the administrative bureaucracy side of Suharto's patronage system, having appointed New Order stalwarts who understand how the old system

worked and were adept at working it. But she will have to control appointees outside her own party. How she will deal with the crony capitalist side of the patronage system is still not clear. In an important speech, Megawati announced that her family members were not to be involved in any corrupt practices, and that if anyone was approached in their name it would be under false pretenses. Yet, Megawati, like her competitors, will face costly electoral contests at the national and local levels in a couple of years, and those costs will need to be covered somehow.

This points to a new challenge that has arisen with democratization. According to Teten Masduki of the Indonesia Corruption Watch and others, the pattern of high-level corruption has changed. It is not just that renegade individuals or cliques are exploiting what remains of the old system for their own benefit, or that Golkar has inherited certain elements of the old patronage system. If Masduki is correct, the highly competitive political parties have had to establish their own patronage networks. In the new multi-party structure, parties have to compete for funding, massive injections of which are necessary in a large, complex country such as Indonesia. For the most part, such funding comes not from members but from still-powerful commercial interests built up under the New Order system (such as businesses and cronies), from political bureaucrats, and through the pillaging of cash flows from state-owned enterprises. In the past, Suharto shaped the institution of the presidency so as to be able to direct major decisions—his power being not only institutional but also based on personal, individual relationships. Today, many of the key political actors are outside the circle of presidential control. Therefore, opportunities and channels for corruption have fragmented, at the same time the number of political parties needing financing has multiplied. Once they have succeeded in winning parliamentary seats, parties must negotiate a share of cabinet and other positions in order to continue to tap into funding. A party that fails to do this effectively will find itself relegated to mere opposition status, with limited prospects for competing successfully in future elections. This scenario of the new pattern of corruption is supported by the research of George Aditjandro, who has been tracking the remarkable saga of alleged abuses by key figures around each of





the new Presidential administrations as well as by the main parties.

Whatever the *moral* predilections of top political figures—and this is no doubt a mixed bag in Indonesia as elsewhere—hard financial realities are now shaping the new democratic game of politics, patronage, and corruption. Wahid's administration was no exception. Despite initial commitments to fundamentally transform the politics of the New Order, corruption remained both a critical prerogative and (apparently) a necessity of power, if not in scale then at least in substance. Megawati's cabinet choices appear to reflect a political calculation favoring stability, in which she is unlikely to punish offenders from the past. More important, whatever her administration's commitments to reducing corruption, she still faces the challenge of financing her party's next electoral campaigns at both local and national levels. Her domestic challenges—political and electoral—will likely intensify, given her generally pro-U.S. stance following the events of September 11.

Given intense press scrutiny in the post-Suharto era, as well as heavy competition by parties to expose one another, high level corruption that is tied directly to the president's inner circle and to government positions held by opposition parties may actually decline. However, the economic damage will be just as bad or worse than before, since the corruption is less organized and controlled across the governance system as a whole. Businesses can live with a certain level of corruption if results are guaranteed, but the environment becomes less predictable if there are multiple and competing centers of independent political actors seeking rents.

## CONCLUSION

For many Indonesians, deep corruption was closely associated with the ruling style and character of Suharto and other senior New Order leaders. It was assumed by many that the problem would correct itself with democracy and new political leadership. This explains, at least in part, the nearly obsessive focus by anti-corruption activists on legal retribution against Suharto and his cronies, and on recovery of the alleged billions that they have stolen. Yet if, as I have argued here, Indonesia's governance system was built from top to bottom to function not just as

a command and control apparatus, but as a patronage generating machine, then piecemeal legal or institutional reform may not be enough. Nor will grafting new oversight layers onto the existing system accomplish more than cosmetic improvement. What is needed is fundamental reform of the New Order administrative system, combined with political finance reform to keep the new political parties in check.

Can Indonesia achieve this scale of counter-corruption reform? If we have learned one thing worldwide, it is the indispensability of strong and committed political leadership. The process cannot be driven from the outside by the international donor community. Nor can a handful of even highly committed activist NGOs and journalists do much by themselves, even if they succeed at drawing public attention to the cause. Unfortunately, however, top leaders are not likely to attend seriously to the fundamental problems built into the administrative system. In an environment of intense multiparty competition where every party desperately needs financing and where none is likely to emerge dominant, any major attempt reform by political leaders will be self-defeating. In the final analysis, I believe that significant progress toward reduction of corruption in Indonesia, as elsewhere in Asia, will require powerful new alliances that unite domestic civil society, the independent business community, and international actors. Such an alliance must focus on defining a concrete anti-corruption agenda—including both fundamental administrative reforms and party/campaign finance reforms—and then hold political leaders accountable for progress on that agenda. Unfortunately, Indonesia is still a long way from fulfillment of these conditions.

It is not yet clear whether time is on the side of reformers. Still unparalleled in modern Asia is the extraordinarily broad coalition of interests that emerged in the Philippines to end the looting by the Marcos regime. That coalition encompassed independent business, the powerful landowning class, the Church, organized labor and the agrarian poor. Yet, that movement was politically unsustainable. More than a decade would pass before serious political commitment for counter-corruption reform, backed by the middle class, emerged and crystallized around the anti-Estrada movement (EDSA II). Even now, much of the battle for institutional reconstruc-



tion lies ahead. But overall, the Philippines seems to be moving in the right direction. In Thailand, too, a peaceful, middle class led revolution is quietly taking place, though the nearly decade-old movement is far from complete. The 1997 constitution—which is, in effect, a vast counter-corruption agenda—was a watershed in terms of reform. There are growing questions about how far reformers can go in implementing the constitution, and the old guard is putting up a credible fight against change. Nonetheless, significant progress has already been made in recent years toward breaking up the old mechanisms of bureaucratic power and corruption, and toward displacing the new corrupt business-based politicians who sought to take over these mechanisms in the 1990s. Despite the short-term difficulties, the experience of these ASEAN neighbors may auger well for the long-term prospects for counter-corruption reform in Indonesia.



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