

Toward a Criminalized State?

Editor's note: This was translated from the original text from Tempo.

Tempo, Dr. Todung Mulya Lubis, 12/01/13 Are you familiar with Gustav Papanek? An economist and professor emeritus, he frequently traveled back and forth between Indonesia and the U.S., providing assistance to Indonesia's technocrats to develop their country's economy. He was very close to many of our economists. I saw him listening intently to my lecture about political corruption in Indonesia, while he took notes on his small memo pad. He expressed his opinion that the impact of corruption is indeed very troubling and that he is very concerned about it. But he said not to worry too much about the total amount of money involved in corruption. While it is a large amount, it is not too big. In many other countries, the amount is much greater. What is most worrying, according to him, is corruption's impact on Indonesia's economic system, its democratic integrity, and its rule of law. These are the biggest losses from corruption or political corruption.

I believe that Papanek is right. However, I still believe it is necessary to state the facts about anti-corruption efforts since the war against corruption began seriously at the beginning of the reform era. There are many people who are still not content with the successes of the country's anti-corruption efforts. If corruption in Indonesia is considered systemic, endemic, and widespread, there should be more perpetrators being caught and sent to jail. There should be more money that was stolen from the people, being returned to the state. But apparently people engaged in corruption still roam free, even though their names have been mentioned several times in court investigations. Many of them are not investigated; many of them are free to travel. In fact, there are several perpetrators who have gone to jail, but who were still inaugurated as state officials and control the administration from behind iron bars.

I understand the rage that many people feel. But eradicating corruption, which has been in place for 32 years and seems to have become the norm, is not an easy job. Frankly, in my opinion, the Corruption Eradication Commission (KPK) has already achieved remarkable successes. According to the KPK's 2012 Annual report, the KPK has already handled 283 corruption cases since 2004. This means that there are likely more than 283 people who became suspects or inmates. Those perpetrators include ministers, members of the parliament (DPR), governors, mayors, district heads, ambassadors, Bank of Indonesia governors, and directors of state-owned and regional government-owned enterprises. Who is brave enough to say that these achievements are not impressive? Please note that never in the history of the Republic has there been an anti-corruption effort that has netted so many powerful people. "This is something unprecedented", Papanek said. And indeed the people have placed their hopes with the KPK.

The success in arresting, investigating, prosecuting, trying, and ruling corruption suspects must be appreciated, even though it must be admitted that there are still many corruption practices taking place. Evidently, every week, there are corruptors who are caught, but the war against corruption has not diminished their boldness to commit corruption. There is no deterrence. Our 2012 corruption perception index increased slightly to 32 (more or less 3.2 if the old survey method is used). Meanwhile, China in 2012 obtained a score of 39, better than Indonesia's. Yet, without a doubt, people's perceptions about corruption in Indonesia have not changed much. Our beloved country is still viewed as a fertile place for people who are engaged in corruption and who are not afraid that they will go to jail.

Because of the high number of corruptors in Indonesia, there are people who say that Indonesia is "a corrupt country" or "a corrupt Republic". This emotion comes from their anger. I personally do not want to call Indonesia a corrupt country. I would prefer to call it a *criminalized state*, a term which came from Robert Legvold, who wrote extensively about [corruption in] Russia.

Legvold offered three approaches: criminal state, criminalized state, and public corruption. In a *criminal state*, the country commits criminal actions as official policy in order to obtain money. Several countries in the former Soviet Union and in Africa enter into this category. In the context of *public corruption*, what occurs is that criminals or greedy members of society are the ones who get involved in corruption. As a comparison, when we buy a bushel of apples, there will be bad apples. The perpetrators are the bad apples, but the country, on a whole, is not involved in corruption.

So then what is a *criminalized state*? Here, corruption is not a form of government policy and it is not committed by a country, but the country is hijacked by a group of people who are misusing their power to enrich themselves through several actions, such as creating [self-benefiting] policies, legislation, regional regulations, and court rulings. It is very likely that their actions are not only about personal enrichment, but also about enriching their families, communities, and political parties. Russia, according to Legvold, is categorized as a criminalized state. I believe, Indonesia is also in that category.

To understand how corruption works in a criminalized state, Legvold used a theory called state capture, which is frequently used by the World Bank and other international financial organizations. An element of state capture can be seen in cases where a state is abused for the interests of specific people, families, groups, and parties. There are many suspected corruption cases that have involved state capture. Corruption allegations that occurred within the political dynasty of Ratu Atut Chosiyah, for example, can be seen within the context of the criminalized state and state capture terms. Key [government] positions are under the [dynasty] stronghold and reputedly many connected companies obtain work through their association [with the dynasty]. Not only is there corruption in the implementation phase, but in the planning phase as well. The administration is controlled by business interests, which constitute a part of the illicit enrichment.

The Hambalang case can be seen as an example of the same theory. Procurements for the Hambalang project were planned, discussed, and decided on—with the aim of getting the greatest benefit [for the perpetrators]. The political process mixed with the business process, collusion paired with corruption. The DPR and the government were held hostage to smoothly carry out the project. Unfortunately, funds for this project leaked everywhere until finally the KPK got involved. The same occurrence happened to the beef import bribery case, which implicated the leader of the Justice and Welfare Party (PKS) and his cronies. The provision of import licenses to a limited number of companies has led to the creation of a cartel. Once again, the power of the state was abused. This practice is known as economic rent. It is not too difficult to unfold such a scheme to hijack the state's power because the perpetrators are those who are in power or are close to it.

Not all corruption that occurs in a criminalized state can be seen. There is corruption that cannot be verified. But we smell the stink of corruption there. Corruption in the oil and natural gas sectors is prevalent, and has amounted to a very large number. Since the New Order era, the oil trade has robbed the country of its wealth, but there have not been people brave enough to reveal it. Too many interests are involved, so it will never be revealed. This is, what I call, the mother of corruption.

The Lapindo case can also be seen from the perspective of state capture because it was a type of bailout. Many people compared it with the BP case, which was much more serious, in Macondo, the Gulf of Mexico. BP was forced to pay, on its own, the costs of cleaning up the oil in the Gulf, and to pay damages to the government and local residents. But BP was not bailed out, and this has caused them to go nearly bankrupt. So then why was Lapindo bailed out? Many suspect it is because the country has already been hijacked. I am convinced that the debate over the handling of the Lapindo case will continue—not only in the criminalized state context but also in another perspective.

I do not mean to say that all corruption cases occur because of state capture. Many involve the corrupt activities of politicians—what are called ordinary corruption cases. This type of corruption is done by greedy politicians because they want quick wealth. These politicians enter the bad apples category. I have not reflected on the corruption committed by these greedy politicians. I pay more attention to corruption cases through state capture, for instance in the DPR's Budget Committee. This is where state capture begins—where the budget is formulated, projects are planned, including the corruption plan.

Corrupt practices that have hijacked this country must be opposed and stopped. If corrupt practices become more common and powerful, they may enter a global network where international criminal organizations operate. If that happens, we will become a criminal state or, perhaps in our beloved country, something called a shadow state will emerge, as George Klay Kieh said. Do we realize this?

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