

STEALING FROM THE PEOPLE

16 Studies of Corruption in Indonesia

Book 1

Corruption - from Top to Bottom

Editor of the English Edition
Richard Holloway

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“Stealing from the People”

Foreward to the English Edition

Stealing from the People is published by the Partnership for Government Reform in Indonesia. The Partnership’s aim is to promote and support a program of governance reform. The Partnership is governed by a Board consisting of senior government officials, private entrepreneurs, and Indonesian citizens who have a clear perception of the meaning and purpose of good governance. The World Bank, the United Nations Development Program (UNDP), and the Asian Development Bank are both founders and members of the Partnership.

The purpose of publishing the book *Stealing from the People* is to present the Indonesian public with a collection of research reports about how corruption has come about, spread, and held hostage the entire social fabric of the Indonesian nation. The book also aims at convincing the deeply concerned community of reform minded citizens in the country that somewhere, behind a mountain of hard and smart work, there is hope for salvaging the nation.

The editorial concept of the book emerged from the ranks of the Partnership. The editors wish to thank Ms. Merly Khouw, a consultant to the Partnership, for the selection of authors, and her persistent drive for precision, detail, and accuracy. Most of the reports were written in Indonesian and have been translated into English. It is not an easy task and the Partnership is grateful for the work done by translators and editors, particularly Michael Soldner, who understood that each language carries with it its own syntax and idiom which would result in distortion of intended meaning if translated literally.

The book’s cover represents the work of Dolorosa Sinaga, an Indonesian sculptor who has generously permitted the Partnership to feature the fruits of her creativity at the front of this most important book. To the Partnership, Dolorosa Sinaga’s sculpture symbolizes the resolve and the desperation of Indonesia’s poor waiting for justice. Finally the editors thank Mr. Khateeb Sarwar Lateef, Senior Adviser to the World Bank in Indonesia and Ms. Sri Urip, Executive Director of the Partnership for their accessibility and wise counsel.

The book is up to date until April 2001. The findings, interpretations and conclusions are those of the authors of each report and do not necessarily reflect the views of the Partnership. Neither the Partnership, the members of the Governing Board, the organisations or governments they represent, nor their affiliated organizations may be held responsible for the accuracy of the facts and data in this publication, or any consequence whatever resulting from their use.

Richard Holloway
Editor of the English Edition
Jakarta, January 02

“Stealing from the People” - Introduction

By Nono Anwar Makarim

The 16 essays in the 4 volumes of *Stealing from the People* report on research conducted by the authors. The book is about what people have always suspected, but didn't know precisely. How did they steal from the people? From the presidential palace to military headquarters, from state enterprise to national development planning boards, from foreign aid projects to courts of justice, from banks to political parties, entire sectors were examined. The result was a picture of systemic corruption. It is corruption conducted in an institutional and organized manner, covering all political and economic sectors. Highly placed government authorities cooperate with private businessmen, local government bureaucracies, customs, and the state security apparatus in order to maintain and develop the art of stealing.

The constant theme emerging from the studies is that the government must be controlled, that control cannot be done by government alone, and that those most entitled to exercise such control are the corruption's victims - who are the entire citizenry of Indonesia. A warning that also arises from the 16 studies is that news about corruption in the media is not about some distant crime occurring to some other person removed from ourselves. It is, in reality, a prior notice to everybody that a bill is on the way to pay for the luxury of the few.

Stealing from the People cautions that isolated measures are not enough to begin making a dent in the armour of corruption. Setting up anti-corruption task forces and watchdogs only won't do. When political pressure is strong, governments normally succeed in deflating tension by feigning serious attempts at dealing with corruption. Most of the time they get busy setting up commissions. In 1997, in Kenya, the government established 4 anti-corruption commissions within the span of one year. There was no significant improvement in the situation. During the rule of President Suharto no less than 5 anti-corruption committees were installed. In 1970, at the time of establishing No.2 in this series, Suharto even pledged to lead the fight against

corruption himself. One of the cruel ironies of the anti-corruption efforts during the New Order era is that the country managed to gain a prominent seat among the most corrupt countries in the world.

Simply jailing the culprits won't do either. Pursuing corrupt officials, even in countries where the legal system has a tradition of working more or less effectively, has not produced the desired results. In the 80s and 90s waves of successful prosecutions and convictions of corrupt officials swept through the bureaucracies of India, Bangladesh and Pakistan. Soon thereafter, their replacements were doing the very same things for which their predecessors had been jailed. Law enforcement as a single anti-corruption policy tool in a broken down legal system such as we find in Indonesia is disastrous for two reasons. It is ineffective and it erodes what little social trust remains in society. Officials accused of corruption are interrogated, held in detention, milked by investigating officers, prosecuted and then set free by the courts. Arrests made by investigating officers against present or former government officials leave the general public cold. People already know what the outcomes of the arrests will be.

The 16 research papers warn that, unless law enforcement and anti-corruption commissions are accompanied by other policy reforms, efforts to reduce and eventually eradicate the most flagrant forms of corruption are doomed at birth. Such policies include institutional reform of the bureaucracy, the reduction of the public sector, privatization of state enterprises, and the launching of successive campaigns to raise public awareness of the evil corruption generates. The proposed policies may have big sounding names, but at closer inspection contain down to earth prescriptions. Institutional reform of the bureaucracy, for instance, calls for fit and proper criteria to be met by people joining the bureaucracy, and similar criteria for people to be promoted. The ethos of selfless service to the public, no matter how far removed from reality, must be inculcated and restored to each government agency in order for its members to regain their self-respect. Law enforcement, the punishment of those found guilty of violating the laws, is not merely a retributive measure, but aims at resurrecting the basic moral code of right and wrong. It should correct the disproportionate adulation of rich government officials and promote the embarrassment of association with persons whose wealth was accumulated by corrupt means.

The reduction of the public sector should not be seen as a capitulation of selfless public service to rapacious plunder by cut-throat capitalist monopolies. It is but a serious effort to reduce

the space of corrupt activities and, sometimes, even to increase public gain. An example of this would be the take-over of Indonesian customs functions by a Swiss-based surveyor company. Government income increased, and the increase served as an indication of what, in the past, would be lost to corruption. The same goes for the privatization of state enterprises. Protests against these measures are cloaked in nationalistic jargon. In reality it is but a political mask hiding the fear of losing resources from which to finance patron-client relations and political loyalties.

Finally, there is the need for sustained campaigns to broaden the pressure faults and include both domestic and foreign fronts in demanding a stop to the plunder of citizens. Foreign pressure is much needed in a power structure dominated by a bureaucratic polity bent on protecting the status quo. If threatened, the system either resorts to sabotage through inaction, as we see today – or violence, as we saw in the past. This is why domestic pressure is not enough to bring forth significant results. An important phase of the campaign should stress the issue that good governance is not a sell-out of the national interest. On the contrary, corruption is such a sell-out. Stealing is bad. It does not matter whether the thief is Indonesian or foreign.

Introduction to Volume 1:

“Corruption - from Top to Bottom”

The present volume in the four part series on corruption in Indonesia underlines the fact that corruption is widespread and deeply rooted, and that governments have never seriously tried to counter it.

George Junus Adicondro's contribution is a case study of presidential graft. The study outlines the involvement of members of former president Suharto's family in "enriching themselves by violating the law and harming the state's finance and economy". It discusses the methods of corruption utilised by the Suharto family members. These include the setting up of charitable foundations, the expropriation of assets belonging to cronies of the deposed president Sukarno, the abuse of presidential decrees in creating commodity monopolies, the misuse of public facilities and many more. General gate-keeping and rent seeking activities are described at length. Aditjondro points out that the circle of family, friends and cronies have consistently demanded special rights normally accorded exclusively to the state - such as leasing of aircraft for annual haj pilgrimages, the import of arms, and the trading in explosives. The family did not shy away from such outright criminal activities as smuggling of precious metals, printing and circulating counterfeit banknotes, and even drug trafficking. After exposing the various ways in which the Suharto oligarchy protected its wealth, the report examines the impact of presidential graft on Indonesia's economy, state and society.

Suharto's fall prompted a shift of the pendulum of power from the executive to the legislature. This shift has generated severe political conflicts. According to Alexander Irwan, these conflicts are soaked in political deals, and have prevented a KKN free state administration from becoming an important agenda item in the executive, legislative, and judicial branches of government. In Indonesia's present political context, the issue of eradicating KKN has in fact been used as a tool in the establishment of political alliances, the threatening of political opponents, and in the pursuit of short term political deals in the struggle for power. Many of the political struggles

in the recent past have in fact been political power broking, and have not been seriously committed to eradicating KKN despite claims to the contrary.

In addition to being tied up with short term interests of power, the government's disinterest in setting up a clean administration is also the result of mid term interests of the major political parties in financing their campaigns in the 2004 general election. These political parties do not include a KKN free state as a main part of their political agenda. Instead they rely on substantial financial support which is frequently raised in violation of the law on acceptable limits of contribution to political campaign funds. Irwan discusses why and how the struggle for power between the president and parliament has caused stagnation in the eradication of KKN in Indonesia, and how this stagnation may be exploited by the legislative and executive branches. The issue of money politics in the 1999 General Election, skillfully practiced by Golkar, is brought up as a pattern most likely to be emulated by other major political parties in the next general election.

Indonesians may not be conscious of the fact that their life cycle is caught up in an intricate network of corruption. From the time they wake up until the time they prepare for bed, from the time children are born until they are buried, corruption maintains a firm control over their lives and after-lives. Taking care of birth certificates, taking children to school, admission to universities, getting jobs, handling retirement, receiving health care, and obtaining land for burying loved ones, extending the time during which loved ones may remain buried in the same grave, all of these "rites of passage" require payment of bribes. The essay of Sudirman Said and Nizar Suhendra outlines the modus operandi of corruption from the primitive to the very sophisticated. The variety ranges from taking money from safe deposit boxes, skimming from project funds, marking up costs, demanding commission from contractors, selling licenses, as well as giving blank shares to public officials. The more sophisticated operations include money laundering, defrauding family controlled banks, issuing laws, regulations, and policies to benefit certain groups, and favour trading between political power blocks and large businesses. The study points out the fallacy of hitherto popularly held beliefs. Rampant corruption is not prompted by low wages of civil servants. On the contrary greed and gluttony, not the means of survival, are the primary motivations of corruption. Widespread corruption has not "oiled" the economy. Businesses and the economy do not operate on the basis of actual costs because cost comparisons are

difficult to estimate. Corruption results in a high cost economy which, in turn, has made Indonesian products uncompetitive in export markets. The private sector is more inclined to seek rent (i.e. payments for illegal activities) rather than profits acquired by improved efficiency and higher quality goods and services. Corruption does not redistribute income. The public is unaware that it has to bear the price of corruption, the accumulated results of which are enjoyed only by a small number of people in control of power.

The question of whether KKN can be minimized is dealt with in the study by Ibrahim Assegaf et al of the Centre for Policy and Legal Studies. In the Suharto era, anti KKN policies were contained in the State Policy Guidelines (GBHN) and the 5 Year Development Plans (Pelita). During Habibie's government, anti KKN policies were merely derived from the GBHN. During Abdurrahman Wahid's tenure, the GBHN and the National Development Program (Propenas) took up such policy matters. The Laws 3 of 1971, 31 of 1999, and 28 of 1999 were the legislative implementation of these policies. The authors show that both the drafting and the enforcement of these laws are sadly lacking in precision, inclusiveness and political will.

Richard Holloway

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Suharto has gone, but the regime has not changed: presi- dential corruption in the Orde Baru

By *George Aditjondro*

INTRODUCTION

Two consecutive sessions of the People's Consultative Council, or MPR (Majelis Permusyawaratan Rakyat) have expressed the determination of the Indonesian people to eradicate corruption at the highest level of the state. The November 1998 Special Session of the MPR issued a decree on Good Governance, Free from Corruption, Collusion and Nepotism. Then, less than a year later, in October 1999, the new MPR announced a reform agenda to achieve a state apparatus that "functions in providing services to the people that are professional, efficient, productive, transparent, and free of corruption, collusion, nepotism."

The main difference between the two MPR decisions is that the November 1999 decree named the former dictator by name. Point (d) of the decree mentions that

Efforts to eliminate corruption, collusion and nepotism shall be resolutely pursued through the investigation of any person suspected of such practices, whether former and present state officials, their families and associates, including former President Soeharto [underline, author], or from the private sector/conglomerates, while holding to the principle of presumption of

innocence and human rights (Indonesia Development News, Jakarta, November 24, 1998).

The object of this difference is the focus of this chapter, which aims at systematically recording the involvement of Soeharto's family members in the perpetration and perpetuation of corruption during the New Order. Following Malaysian sociologist, Syed Hussein Alatas, I am including "nepotism" and "collusion" under the broader concept of "corruption." A common thread running through "bribery, extortion, and nepotism" is, according to Alatas,

the subordination of public interests to private aims involving a violation of the norms of duty and welfare, accompanied by secrecy, betrayal, deception and a callous disregard for any consequences suffered by the public (1999: 6-7).

Since it focuses on the particular involvement of Soeharto's extended family in corruption, this paper is a case study in what the literature describes as "presidential graft," as coined by Laurence Whitehead in 1983 and popularised by Belinda A. Aquino in her study on Marcos' corruption in the Philippines (1999). According to Aquino:

Somewhat lost in the plethora of cultural, economic, structural and other aggregate explanations of corruption is the role of individual presidents, rulers, heads of state, and ruling elites in using their office to hoard personal or family fortunes" (1999: 13).

Therefore, this chapter aims at complementing the body of literature on this subject by focusing on Soeharto's corruption during his 32-years presidency.

Aquino argues that the availability of evidence need not be a problem where the flagrant personal enrichment of top political leaders is only too well-known. As she puts it:

Until Marcos came along, the top "kleptocrats" were Latin American dictators. The reported fortunes of the five caudillos between 1952 and 1961 was between \$1.8 to \$2.6 billion, which is still so much lower than the \$ 5 to 10 billion that just one dictator in Asia, Marcos, was alleged to have amassed" (1999: 14).

Aquino also expands her 'inventory' of presidential graft to Africa, qualifying it by saying that

The African dictators, however, cannot compare with their Latin American counterparts in scale of graft committed and resources plundered. Ghana's Kwame Nkrumah, for in-

stance, was believed to have salted away only four million pounds \$ 8 million. And, to repeat, the Latin American dictators seemed like 'small bananas' compared to Marcos of the Philippines (1999: 14-15).

So, if Marcos' presidential graft has already outdone Latin American and African dictators before him, what about Soeharto, whose immediate family had acquired US\$ 73 billion over 30 years of Soeharto's presidency, but 'only' kept US\$ 15 billion of that wealth (Time, May 24, 1999). If that allegation is correct, Soeharto outranked all other top cases of presidential graft in history, outdoing Zaire's Mobutu Sese Seko who amassed US\$ 5 billion before his overthrow in 1997 and Haiti's Jean-Claude Duvalier (Baby Doc) who made off with US\$ 500 million in the Duvalier family's coffers when he fell from power in 1986 (Prince 1985:43; Time, May 24, 1999: 44). Soeharto's graft certainly warrants an in-depth study, much deeper than this paper attempts to do.

To deal with this difficult yet extremely important topic, this paper will first outline, in chronological order, the involvement of members of Soeharto's extended family in "enriching themselves by violating the law and harming the state's finance and economy." Then, I will discuss the methods of corruption used by the Soeharto family members, to be followed by a study on the impact of presidential graft on the Indonesian economy, state and society.

The data for this chapter have been gathered through library research, documentary research and field observations in Indonesia, Australia, New Zealand, the USA, the UK, the Netherlands, Belgium, Switzerland, Germany, the Philippines, Hong Kong, Singapore and Malaysia during the last six years (1994-2000).

CORRUPTION REGENERATION

The involvement of Soeharto's relatives in corrupt businesses, which developed from favourable deals with the Government, can be divided into three generational waves. The first wave was the involvement of Soeharto's brothers, cousins and in-laws in companies set up during the first decade of Soeharto's presidency. Soeharto's own children, as well as his father-in-law, were also nominally involved in those businesses, but only as passive shareholders. The second wave began in the mid 1970s through the 1980s, when Soeharto's own children

became adults and wanted to become active business players, or, rather, rent-seekers. Finally, the third wave began in the late 1980s through the 1990s and was a kind of 'free-for-all' phase, with three generations of Soeharto's extended family joining the plundering game.

One of the main driving force in this tremendous appetite for business among the entire Soeharto clan was the former dictator's wife, Mrs. Siti Suhartinah Soeharto, also known as 'Madame Tien,' which, in typical Javanese humour, was changed into "Madame Ten Percent," alluding to the cut she demanded from business deals in which she was involved through her relatives or charities. She thereby put Indonesia on the map of states whose economies were suffering from what has been termed as "the first lady syndrome" by Nigerian political scientist, Phil E. Okeke (1998) - together with the Philippines under Marcos, Argentina under Peron, Romania under Ceausescu, and Nigeria under the Babangida regime (1985-1993).

During this first wave, several younger brothers from Soeharto's and his wife's sides emerged into the business arena. From Soeharto's side the first ones to bank on Soeharto's power were Probosutedjo, a step-brother, and Sudwikatmono, a cousin, whose father took part in raising the young Soeharto. These represented the Soeharto family in the Salim Group of companies, headed by Soeharto's oldest business partner, Liem Sioe Liong, aka Sudono Salim (Schwarz & Friedland 1999). Meanwhile, from Mrs. Soeharto's side, the first younger brothers to emerge in the business world are Bernard Ibnu Hardoyo and Ibnu Harjanto.

Probosutedjo and Liem Sioe Liong immediately attracted attention, because a company owned by Probosutedjo (PT Mercur Buana) and another company owned by Sudono Salim (PT Mega) obtained a 'duopoly' to import cloves and sell them to producers of clove cigarettes (rokok kretek). Salim's company obtained the monopoly to import cloves from Zanzibar (Tanzania), while Probosutedjo's company obtained the monopoly to import cloves from the Republic of Malagasy (formerly, Madagascar).

This clove monopoly has been a point of heated controversies between the Soehartos and their critics, with Probosutedjo four times threatening to sue critics who accused him of enriching himself through that clove monopoly due to the support of his brother the president. Three times Probosutedjo and his critics opted for out-of-court 'peaceful settlements', while the fourth case, mine, is still pending.

Probosutedjo's argument has been that it was not the President who appointed his and Liem Sioe Liong's companies to import the cloves from Zanzibar and Madagascar, but the Minister of Trade, the late Soemitro Djojohadikusumo. Soeharto, meanwhile, in his biography, argued that he himself never received a penny from the clove monopoly, since the profits of this arrangement all go to a special presidential account for social purposes, which is managed by Ali Afandi at the State Secretariat. By 1989, the profits had amounted to Rp 246 billion, Rp 40 billion of which had been donated to the Gatot Soebroto Military Hospital. What Soeharto does not mention in his biography is that the clove import arrangements were closely controlled by functionaries of the charities which he and his wife controlled. Ali Afandi is also a treasurer of one of Soeharto's charities, the Supersemar Scholarship Foundation.

Likewise, when Probosutedjo began to import cloves from Malagasy, the head of the Indonesian Mission at that island republic was Herman Sarens Sudiro, an executive of the Harapan Kita Foundation, which was headed by Mrs. Soeharto. Herman Sarens had also been the daily manager of the Indonesia in Miniature amusement park, which is owned by that charity. Besides this, Probosutedjo and Soeharto have not disclosed the total amount of fees which the two companies collected over the period that they monopolised the clove imports from the two African countries, which certainly amounted to tens of millions of dollars. In 1975 alone, Indonesia imported 12,300 tonnes of cloves from the two African islands, which was then worth US\$ 35.8 million, and in 1980, Indonesia's clove import from Zanzibar and Malagasy was worth US\$ 120.1 million. With the 2% fee dictated by the Minister of Trade, they could already have received US\$ 4 million in clove levies for those two years alone. It is thus not difficult to imagine how much clove levies they collected over the more than two decades that they monopolised these African clove imports (Verchere 1978: 13-14; Soetriyono 1988: 17-18; Dwipayana & Ramnadhan KH 1989: 290, 292, 513; Gafur 1992: 390; Hendrowinoto et al 1998: 193-194, 202-203; TBN No. 53/1996).

Then, during the second wave, five of the six Soeharto siblings began to form companies which fed on government contracts, were supported by various government agencies, or even simply used public facilities. The most blatant case was the use of Indonesian Navy landing crafts - after dropping the invading troops in East Timor in December 1975 - to ship cattle from Queensland, Australia, for the Tapos ranch of Soeharto's eldest son, Sigit Harjojudanto, in West

Java. Eventually, the cattle raised on Tapos was transported with Indonesian Air Force Hercules aircraft to the outlying provinces, on behalf of PT Bayu Air, Sigit's air cargo company.

This blatant abuse of power took place even after the 700-Ha ranch - on Indonesia's most densely populated island where the average landholdings of farms are less than one hectare - had been strongly criticised by students and other dissidents. What was at issue was not only that the size of the ranch was equal to the size of one whole village, but also that it was created by consolidating fallow as well as cultivated land, with full support by the Governor of West Java, the Minister for Public Works, and the Minister for Agriculture. It is interesting to note that Soeharto claimed to be merely an 'unpaid consultant' in his son's company (Jenkins 1984: 164-165; Dwipayana & Ramadhan KH 1989: 294-297; Aditjondro 1998: 54; Ismawan 1998: 33-37; Hendrowinoto et al 1998: 141, 158-159, 175, 263, 289-291).

Finally, during the third wave, especially after the death of the clan's matriarch, Mrs. Soeharto, in April 1996, all the six children began to compete with each other to set up more and more lucrative projects. The eldest daughter, Siti Hardiyanti Hastuti Rukmana (born 1949) was in toll roads, a business which made her venture into the neighbouring countries of Malaysia, the Philippines, Burma and China. The middle son, Bambang Trihatmodjo (born 1953) was in chemical industries, communication satellites and co-owned one of the largest oil and LNG tanker fleets in Asia. The youngest son, Hutomo Mandala Putra (born 1962), popularly known as Tommy Soeharto, was planning to launch the country's first national car project, ominously named "The Timor Car", in a joint venture with Kia Motors of South Korea. The eldest son, Sigit Harjojudanto (born 1951), was a co-shareholder in Tommy Suharto's conglomerate, the Humpuss Group. The middle daughter, Siti Hediati Hariyadi (born 1959), popularly known as Titiek Prabowo, was a co-shareholder of the Tirtamas Comexindo Group of her brother-in-law, Hashim Djojohadikusumo. Their businesses received special protection from the Army's special forces, Kopassus, commanded by Titiek's husband, the young general Prabowo Subianto, whose troops regularly received special bonuses from Hashim and Titiek's Tirtmas Group. The youngest daughter, Siti Hutami Endang Adiningsih (born 1964), was just beginning to build her own conglomerate, after receiving a special deal from the Jakarta Municipality to reclaim the city's northern coastline, a fruit garden near Bogor, West Java, and the sole agency for importing Russian military aircraft.

With the public eyes fixed on the wealth and the rapid business expansion of the Soeharto siblings inside the country, not much attention has been given to the fact that the family had built an international network of companies, properties, and bank accounts in all the well known tax havens in the world, from the Carriibbean to the South Pacific to the Channel Islands and Gibraltar (Backman 1999: 292-299).

METHODS OF CORRUPTION

In this section I will outline the methods employed by the Soeharto family to accumulate their wealth domestically and internationally. The methods employed domestically differ from those used in making such wealth work internationally, but in some cases were employed simultaneous.

Methods of Domestic Wealth Accumulation:

Among the diverse methods of domestic wealth accumulation, the following will be discussed in this section, which range from abusing the legal status of charities to organized crime, namely:

- a. setting up charities;
- b. appropriating assets belonging to cronies of the disposed President Soekarno;
- c. issuing and misusing Presidential Decrees;
- d. forming commodity monopolies;
- e. misusing public facilities;
- f. other forms of gate keeping and rent seeking;
- g. leasing aircraft for annual haj pilgrimages;
- h. using their own airline to smuggle gold abroad;
- i. importing arms and trading explosives;
- j. printing and trading in counterfeit money; and
- k. drug trafficking.

Taking these one by one:

Setting Up Charities:

During his 32-year reign, Soeharto, his late wife, their six children and their in-laws have set up numerous charities, or yayasans as they are called in Indonesian, whose stated purpose was to fund a variety of social and charitable objectives (see Dwipayana & Ramadhan KH 1989: 283-293, 532-533, 561-562, 587, 591; Gafur 1992: 295, 333, 381-478, 486-487, 493-494, 520, 526; TBN No. 67/1970, TBN No. 71/1976, TBN No. 17/1982, TBN No. 80/1983, TBN No. 77/1986, TBN No. 23/1996, TBN No. 9/1996, TBN No. 53/1996).

In reality, Soeharto used these charities to avoid taxation and to accumulate wealth by blurring the distinction between public and private companies. Soeharto then levied contributions from private and public companies for these charities through presidential decrees. It was for this reason that Soeharto, on August 8, 2000, was officially accused by the Attorney General's office of embezzling a total of US\$ 571 million from seven charities he chaired while in office, and was indicted of violating a chapter in the 1971 Anti-Corruption law, which if he was found guilty, could lead him to life imprisonment (Pandie & Kartorejo 1998: 103-128; Aditjondro 1998b; Ismawan 1998: 41-72; Surat Dakwaan No: Reg. PDS-217/JKT/Fpk.2/08/2000; Kyodo, Aug. 30 & 31, 2000).

The five largest charities — Dakab, Dharmais, Supersemar, Tritura, and Amalbhakti Muslim Pancasila — were headed by Soeharto and managed by family members, former generals, bureaucrats and business associates. Although the charities were indirectly funded by the public, the money collected and spent by these entities was not subject to supervision by the state. All financial activities of the yayasans were controlled by Soeharto's inner circle and were not subject to public supervision. A large portion of the charities' funds were used to purchase controlling shares in companies owned by the Soehartos and their friends, political allies, and business associates.

Many of these charities were operating out of government offices and were managed by civil servants and their families, ranging from the State Secretariat in Jakarta to the Indonesian embassies in Paramaribo and Moscow . This is thus another way of abusing public facilities, in

addition to the ones which will be mentioned later.

Appropriating Assets belonging to Cronies of the disposed President Soekarno:

The most blatant example is the take over of PT P.P. (Pilot Project) Berdikari, technically a state-owned company, but actually a holding company collecting political funds for Soeharto. Before being transferred to Berdikari, the company's assets were owned by Abdul Rachman Aslam, Teuku Markam, and Ibrahim Tambunan, three close associates of the late President Sukarno who hailed from Aceh and North Sumatra.

After accusing Aslam and Tambunan of involvement in the 1965 aborted coup d'etat, all the assets of the three business people were taken over by Soeharto, who on August 14, 1966, established PT PP Berdikari to manage those assets. The total assets of the three former entrepreneurs were huge, although still nothing compared to the wealth of the current members of Soeharto's oligarchy. Markam's assets only were worth US\$ 460 million at that time. Slowly but surely, with the assistance of his confidants, Ret. Generals Bustanil Arifin and Suhardiman, the legal status of this company was transformed into a private enterprise wholly owned by three of Soeharto's wealthy charities, Dakab, Dharmais, and Supersemar. Berdikari's bank, Bank Duta, was also changed into a private bank which was owned by those three charities (Crouch 1988: 281-282; Samego et al 1998: 115-117; Iswandi 2000: 130, 140-141, 148, 150, 172, 190-192, 318; Forum Keadilan, Febr. 2, 1995: 62-63; Kontan, Sept. 28, 1998: 23).

Issuing and Misusing Presidential Decrees:

79 of the 528 presidential decrees (Keputusan Presiden, or Keppres) issued by Soeharto during the period 93-98, are, according to the Indonesian Transparency Society, MTI (Masyarakat Transparansi Indonesia) "problematic" since they can be interpreted as abuse of presidential power and aimed at favouring the businesses of the president's family and friends. In its 1998 study, MTI listed 32 presidential decrees in the industrial and trade sector, 24 in infrastructure projects, 8 presidential decrees in forestry and plantation, and 3 other presidential decrees which could be classified as abuse of power and providing special facilities to government officials.

These presidential decrees include:

- Presidential Decree No. 44/1987 which authorised Mrs. Rukmana's company to build and operate freeways all over the country;
- Presidential Decrees No. 86/1994 and No. 14/1997 appointing a company co-owned by Bambang Trihatmodjo and Hutomo Mandala Putra as sole distributor of explosives made by a state-owned company,
- Presidential Decree No. 52/1995 appointing a company co-owned by Siti Hutami Endang Adiningsih to undertake a coastal reclamation project in Northern Jakarta,
- Presidential Decree No. 4/1996 appointing the clove marketing body of Tommy Soeharto to monopolise the buying and selling of cloves all over Indonesia,
- Presidential Decree No. 1/1997 appointing a company co-owned by Bambang Trihatmodjo the right to build the new township of Jonggol, and many more presidential decrees that provided special deals to companies owned by members of the Soeharto family and their cronies (MTI 1998; ICW 1998; Pandie & Kartoredjo 1998: 35-48).

In general, two laws were violated by these dozens of presidential decrees, according to the MTI study and studies by Indonesian Corruption Watch, another anti-corruption organisation - namely Law No. 3/1971 on the Elimination of Corruption, and Article 13 of the 1945 Constitution. The 1971 anti-corruption law defines corruption basically as the act of enriching oneself or others by violating the law and harming the state's finances and economy, while Article 23 of the Constitution states that all decisions regarding public finance have to be taken by the parliament - in other words, they have to be in the form of a law, not simply a presidential decree. In addition, several of the Keppres which are cited as having a corrupt nature also violate Indonesia's laws on the environment and its relevant regulations, viz. the decrees to establish a new capital in Jonggol as well as the reclamation of the Northern Jakarta foreshore, prior to any environmental impact studies (MTI 1998; ICW 1998; Pandie & Kartoredjo 1998: 35-48; Ismawan 1998: 130).

Forming Commodity Monopolies:

This method of wealth accumulation began with the wheat import and flour milling monopoly granted in 1969 to PT Bogasari, a company set up by Soeharto's oldest business partner, Liem Sioe Liong and Sudwikatmono. They initially used American wheat supplied under the Public Law 480 "Food-for-Peace" Program of the US government (Soetriyono 1988: 19-22). After the demand for instant noodles became strongly entrenched among Indonesian and overseas customers, they began to import directly from the US, Canada, Australia, and Argentina.

The second strategic commodity the Soeharto family was able to monopolize was the import of cloves from Africa, as mentioned before. Eventually, during his 32-years-reign, Soeharto repeatedly facilitated the establishment of monopolies in numerous strategic economic sectors to benefit companies owned by his children, grandchildren, political allies, relatives, friends, and business associates, mostly using the earlier mentioned mechanism of the 'Presidential Decree' (Keputusan Presiden).

Misuse of Public Facilities:

During his seven terms of office as President, Soeharto consistently made private use of public facilities. He misused government institutions and facilities to profit himself, his family, and his cronies. He made state employees work for the private companies of his children, and abused the ships and aircraft of the Indonesian Armed Forces to assist him to built and develop his son's Tapos ranch as mentioned earlier.

Soeharto and his family and cronies have also taken over (either completely or significant parts of) state corporations for their own private benefits. The most 'popular' form, which emerged when the Suharto children rushed into business, was to force state companies to form joint ventures with Suharto family companies, without any parliamentary approval as dictated by Article 23 of the 1945 Constitution, which states that any decision involving public finance should be approved by the parliament. the approval of the Minister of Finance was also not requested in most of these cases.

One blatant example is the development of toll roads by Soeharto's eldest daughter, Mrs. Rukmana. The state owned road management company, PT Jasa Marga, and the state-owned

steel factory, PT Krakatau Steel are shareholders in Mrs. Rukmana's private toll-road company, PT Citra Marga Nusaphala Persada (CMNP). As long as Mrs. Rukmana's toll road company was making profits, the two state companies had no reason to complain, and the Soeharto-controlled parliament approved annual hikes in the toll. Theoretically, PT Jasa Marga and PT Krakatau Steel were making money too. However, when PT CMNP faced financial difficulties, such as when it had to pay dividends to overseas investors who had bought its bonds on the Dutch stock exchange, it became unclear whether the two state companies, whose involvement in Mrs. Rukmana's toll-road company had never been publicly discussed and approved by parliament, should also bear the financial burden of those speculations.

This dilemma of investing in a Soeharto-linked company, riding on their expansionist bandwagon, and yet facing the risk of having to share the financial burden when the expansionistic balloon bust, is currently a big problem for PT Jasa Marga in particular, and the Indonesian public in general. By January 1998, CMNP claimed that its US\$ 750 million resources made it unable to pay the dividends for Jasa Marga's shares (ICW 1998). Internationally, overseas investors in CMNP's Amsterdam-based subsidiary, Citra Marga Finance BV, were also unhappy, because in an extraordinary meeting of the shareholders on May 31, 1999 in Singapore, the company asked investors who held US\$ 175 million in floating-rate notes that were due in December 1998, either to give up their defaulted bonds in exchange for at least 63 percent (without additional interest) of the face value to be made in monthly payments over six months, or to accept a new bond that would mature in February 2002 (Bloomberg, May 6, 1999).

It is thus still unclear where the funds mobilised on overseas financial markets have gone, since CMNP has also expanded into building toll roads in the Philippines, Burma and China, but it is very unlikely that Jasa Marga - and by way of extension, the Indonesian people - has benefitted from CMNP's domestic and international expansion. By blurring the boundaries between state-owned companies and their family companies, the Soeharto oligarchy have been able to pass on the buck of overseas loans and financial speculations to the Indonesian people, ultimately the owners of state-owned companies involved in the Soeharto family companies.

Other Forms of Gate-keeping and Rent Seeking:

Soeharto created an environment in which all major businesses, domestic or foreign, had little choice but to provide cost-free shares and management positions to Soeharto's family and friends in order to do business in Indonesia.

In 1997, Bre-X, a small Canadian mining company, reported finding a huge gold deposit at the Busang mine in East Kalimantan. Bre-X did not have adequate resources to develop the infrastructure needed to mine what might be one of the world's largest gold deposits according to preliminary results. Bre-X therefore looked for a partner to help develop Busang. The Soeharto government wasted no time in making sure that the Soeharto family members got a piece of the action. To accomplish this, the government ordered Bre-X to sell majority control of the Busang mine to Barrick, a large Canadian mining company that had entered a partnership with Mrs. Rukmana. Meanwhile, Bre-X tried to play by the same rules and entered a partnership with an Indonesian company controlled by Sigit Harjojudanto.

The negotiations between Barrick and Bre-X fell apart by November 1997. In early December 1997, Soeharto intervened personally and asked his old friend Mohamad Hasan, a billionaire timber tycoon, to broker an agreement on who would exploit what might be the biggest gold discovery in history. Hasan then negotiated a deal for the exploitation of the Busang deposit that assured that both he and his patron would get their share. The deal negotiated by Hasan called for Bre-X to retain 45% of the Busang mine and for Freeport-McMoRan, an American company run by Suharto's friend Jim Bob Moffett, to get 15% of the mine. Another 10% went to the Indonesian government, and the remaining 30% went to companies connected to the Soeharto family and Hasan. The race to mine the riches of Busang, however, turned out to be a bust when tests revealed that Busang did not contain the large gold deposits initially reported. Still, the Busang debacle is a representative example of how foreign companies did business in Indonesia and how the Soeharto family extracted lucrative deals at every opportunity (Brown 1998: 324-352).

Leasing Aircraft for the Annual Haj Pilgrimage:

During his presidency, Soeharto imposed a state monopoly over the haj pilgrimage to Mecca. All Indonesian pilgrims had to fly with the state airline, Garuda, organized by the Department of Religion. A proportion of these haj planes were leased by Garuda from a consortium which includes companies owned by Tommy Suharto and his brother, Bambang Trihatmodjo, together with the Ireland-based company, Guinness Peat Aviation (GPA). This consortium leased three to four MD11 aircraft from McDonnell Douglas to Garuda, for a rate of US\$ 6,500 to US\$ 6,800 per hour. Tommy Suharto's own airline, Sempati Air, also leased four Fokker -100s from GPA, while Tommy Suharto was the principal agent for Fokker, GPA and Rolls-Royce in Indonesia (Far Eastern Economic Review, Sept. 21, 1989: 71-72, August 23, 1990: 56; Angkasa, May 1994: 61; Warta Ekonomi, Jan. 23, 1995: 22).

This airplane leasing business did not make the haj pilgrimage costs cheaper for Indonesians. While Indonesia's total haj pilgrimage costs reached nearly Rp 7 million in 1994-1995, the costs in Malaysia were two million rupiah lower (Forum Keadilan, May 26, 1994: 39-40, 72-73, 85, June 22, 1995: 31-32; Warta Ekonomi, May 9, 1994: 9-10). It has been estimated by Muhamad Muas, a former member of the Indonesian Supreme Advisory Council, or DPA (Dewan Pertimbangan Agung), that the Suharto family had been able to add Rp 96 billion to their private fortune by this means. He also stated, quite rightly, that it was time for Suharto to be made accountable for those funds (SiaR, Sept. 1, 1998).

Using their Own Airline for Smuggling Gold Abroad:

In 1990, PT Bayu Air, a private airline owned by the Soehartos, was allegedly involved in smuggling gold bars to Switzerland. The plane involved in that flight was flown by an unnamed Martin Air pilot, but PT Bayu Air's president director, Soelarto Hadisoemarto himself took part in the operation. On its return flight to Indonesia, the plane carried a great number of precious goods which did not go through customs check in Jakarta. As a matter of fact, PT Bayu Air continued to smuggle precious goods in and out the country during the following five years (SiaR, Sept. 11, 1998).

This cargo airline was set up by the Soehartos to divert the Lockheed agency for Indonesia away from a rival airline. It created its first fortune entirely by virtue of a 5 % levy on all air cargo flown in and out of Indonesia, enforced by the Director General for Air Transportation, which had to be paid to this company - owned by Sigit Harjojudanto (McDonald 1980: 233-234; Robison 1990: 344, 347; Vriens 1995: 49-50).

Importing Arms and Trading in Explosives:

With their close ties to the military and the police (which until late 1998 was still part of the army-controlled armed forces) members of the Soeharto family and their business associates had been involved in the arms business - legal as well as illegal - since the early years of the Soeharto dictatorship. In 1967, two generals were put on trial for corruption, and one of them was accused of facilitating the smuggling of arms to Biafra during the Nigerian civil war and also, reportedly, to Israel. This army officer, Major General Hartono Wirjodiprodjo, had been an important supporter of Soeharto and had risen to the position of deputy army commander in charge of administration and finance. He was tried in camera by a military court and sentenced to two years imprisonment, which he served at home. The arm smuggling ring to which he belonged was also importing and renting out firearms to those who needed them for private, often criminal purposes.

The modus operandi of this arms syndicate was as follows: a soldier was ordered by his superior officer to perform a certain task, requiring a rifle, outside Jakarta. The rifle was then sold for Rp 11,000, or rented out for a substantial fee. Every month the order was repeated. The proceeds from the sale of the rifle and the misappropriated monthly allowance were then divided. A raid in August 1967 by the authorities on a house at Jatipetamburan, Jakarta, recovered eleven rifles and ten blank order sheets (Crouch 1988: 295; Alatas 1999: 3).

It is unclear whether the Soeharto family directly benefitted from this illegal arms trade syndicate. I will, however, discuss in the section on the globalisation of the Soeharto family's accumulated wealth, how Jantje Lim (or Yani Haryanto), a close business partner of Soeharto, made a fortune from importing second hand landing ship tanks (LSTs) for the Indonesian Navy, involving a company co-owned by Mrs. Soeharto's younger brother, Ibnu Harjanto.

During the last decade of the dictatorship, Soeharto's children themselves obtained the right to import standard military weapons for the Indonesian armed forces. They therefore profitted from the British Scorpion armoured cars which were roaming the streets of Jakarta in May 1998, at the wake of their father's departure from the presidential throne. Mrs. Rukmana held the sole agency to import those armoured cars for the Indonesian army, through her company, PT Surya Kepanjen. She also held the sole agency to import British Hawk-100 and Hawk-200 aircraft for the Indonesian Air Force, and VAB armoured cars for the Indonesian army, via another company, PT Bheering Diant Purnama. Her younger sister, Mamiiek Soeharto, had a company that imported Hercules spareparts for the Indonesian air force. That company of hers, PT Dwipangga Sakti Prima, was supposed to import Sukhoi-30 K aircraft and MI-17 helicopters for the Indonesian Air Force, but these deals were cancelled when her father stepped down. A similar fate has overtaken a deal made by Samsung of South Korea to export LSTs through the Arha Group of Soeharto's grandson, Ari Haryo Wibowo (Pandie & Kartoredjo 1998: 92-94; Irawan 2000: 175-177; Swasembada, May 30-June 19, 1996: 15; Info Bisnis, Sept. 30, 1997: 74-75; Panji Masyarakat, Aug. 5, 1998: 16-20; Prospek, Sept. 21, 1998: 26).

As mentioned before, Bambang and Tommy held the sole agency for the army's ammunition company, PT Dahana. According to Presidential Decree No. 86/1994 and Presidential Decree No. 14/1997, only Bambang and Tommy's companies, PT Multi Nitroma Kimia and PT Tridaya Esta were allowed to sell PT Dahana's explosives for private use (Pandie & Kartoredjo 1998: 41-42; MTI 1998: 43-44; TBN No. 89/1987). Since these deals have become public, speculation thrived that the Soehartos were behind the numerous bombs explosions set off to hinder the Attorney General's investigations into the family's corruption in 1999 and 2000. It also explains the access of the family to firearms, which led to Siti Hutami Endang Adiningsih's arrest and trial for illegal possession of a NAA 22-calibre pistol in November 2000. She was sentenced to 30 days probation by the Jakarta District Court, a verdict slammed as being too lenient by Attorney General Office (Associated Press, Dec. 18, 2000; Indonesian Observer, Dec. 20, 2000).

Printing and Trading in Counterfeit Money:

In the two years since Soeharto was forced to step down, the Indonesian Police Headquarters has uncovered a massive circulation of counterfeit money, amounting to 29 billion rupiah by February 2000 (Irawan 2000: 22). Then, in July 2000, after initial arrests of certain low ranking military officers for allegedly circulating counterfeit money, the police investigations began to lead directly to the Soeharto clan. In July 2000, Gusti Maya Firanti Noor, 29 years, the wife of Soeharto's grandson, Ari Haryo Wibowo, was arrested in a hotel in Western Jakarta for using illegal drugs. Mrs. Maya Sigit, as she is popularly known, was busted because she had asked a hotel staff to buy a prepaid mobile phone card using a forged 50 thousand rupiah bank note (Irawan 2000: 71-74).

Maya Sigit was charged for violating Article 62 of Law No. 5/1997 on psychotropic substances, and sentenced to eight months imprisonment and fined an amount equaling US\$ 1,765 (Irawan 2000: 71-74; Associated Press, October 12, 2000). The police investigations, however, led to more relatives of Soeharto being suspected of involvement in printing and distributing counterfeit money. A print shop in Jakarta, where some of the counterfeit money was printed, allegedly belonged to Hutomo Mandala Putra. A house in Pasar Rebo, Eastern Jakarta, where the police found the presses to print the fake Rp 50,000 bank notes, was alleged owned by Siti Hediati Haryadi, also known as Titiek Prabowo. Then, Bambang Trihatmodjo's company, PT Tridaya Esta, which also has the licence to sell PT Dahana's explosives, was discovered to have a joint venture with a state-owned paper mill to produce money paper to sell to the state money printing company, PT Peruri. Finally, an army officer who had been investigated for his role in distributing counterfeit money to troops and militias in East Timor, turned out to be a close associate of Mrs. Soeharto's eldest brother, Ibnu Hartomo (Irawan 2000: 24; , 75-77, 92, 95-108; *Prospek*. Sept. 1, 1997; *Infobank*, Dec. 1997: 128; *SiaR*, March 16, 1999; *Detik.com*, May 31, 2000).

Drug Trafficking:

Maya Sigit's arrest and conviction reopened another chapter of the Soeharto family's corruption, namely her husband's alleged role in drug trafficking, and in particular, trafficking

in “ecstasy”. By the time of her arrest, this potentially lethal party drug had found its way from Amsterdam to Jakarta, Bali, North Sumatra, Aceh, and Australia, with favourite discos in Jakarta such as the Hard Rock Cafe and the Hai-Lai Discotheque in the Ancol entertainment resort as its major distribution centres (Brown & Stuivenberg 1997; Telegraaf, Jan. 23-24, 1997).

Several persons had been tried and sentenced for illegally possessing this drug, before the arrest of Maya Sigit. Among them were three Indonesian students in West Australia, Nasar Aliando (25 years), Iwan Suparman (35 years), and Jose Rizal Paruntu (25 years), who were tried in Perth in December 1995 for illegally importing 450 ecstasy tablets. During their trial, Ari Haryo Wibowo allegedly flew to Perth to provide them with the best defense lawyers. The fathers of two of the suspects were promoted afterwards. The father of Jose Rizal Paruntu, Brig. Gen A.P., then military attache in New York, received a one star promotion and become the assistant of the Defense Minister for foreign affairs in Soeharto’s last cabinet. The father of Nasar Aliando, R.H. Sumarno, then customs chief in East Timor, received a promotion in the Directorate General of Customs (Gatra, Febr. 25, 1995: 102; West Australian, Dec. 9, 15 & 18, 1995, Sept. 6, 1996).

GLOBALISING THE DOMESTICALLY ACCUMULATED WEALTH

Every rich dictator knows that wealth accumulated domestically is better saved overseas. This simple corruptor’s wisdom, which was so well applied by the Marcos oligarchy (see Aquino 1999b), was further developed by the Soeharto oligarchy which built an overseas business empire entrenched strongly in a dozen host countries’ economic systems. The following methods were employed to globalise this ill-gotten wealth, namely:

- a. awarding cronies with powers of attorney;
- b. utilizing well-established international law firms and financial consultancy firms;
- c. utilizing local businesspeople, consultants, foreign politicians, and cronies;
- d. utilising international banking networks;
- e. hiding assets in global multi-layered corporations;
- f. ASEAN-ising the Soeharto oligarchy;
- g. putting eggs in as many overseas baskets as possible;

- h. exploiting Soeharto's international profile;
- i. banking in money laundering centres; and
- j. selling properties to business partners.

Taking these in order:

Awarding Cronies Powers of Attorney:

Soeharto as well as his middle son, Bambang Trihatmodjo, have issued powers of attorney to certain Indonesian businessmen to promote their overseas business interests. On April 7, 1968, Soeharto signed a power of attorney to an Indonesian businessman, Jantje Lim Poo Hien, Soeharto's neighbour at No. 15, Cendana Street, in Central Jakarta to conduct business transactions for and in the name of Soeharto personally. On the same day, Soeharto ordered Jantje Lim to import converted LSTs (Landing Ship Tanks) for the Indonesian Navy, via Greater Southeast Financial and Development Corporation Ltd. Ibnu Hardjanto, a younger brother of Mrs. Soeharto, was on its Board of Directors (May 1978: 225-226; Robison 1991: 283).

The Soeharto family businesses in the Netherlands were also managed by Jantje Lim, who owns a house in Wassenaar, near The Hague. Using Ibnu Hardjanto as his front, Jantje Lim carried out these businesses through Intermeco Utrecht BV which was established in Utrecht on October 19, 1965. This company imported the LSTs through its account at the Indonesische Overzeese Bank (Indover Bank) N.V., a wholly owned subsidiary of the Bank of Indonesia. Intermeco Utrecht BV was liquidated on November 29, 1995, after it could not - or would not - pay its dues to its Dutch business partners. For decades, however, the Dutch government covered up the company due to its links to Soeharto, despite its involvement in shady deals with Dutch companies such as the RSV shipyard near Rotterdam, which had supplied frigates to the Indonesian Navy (May 1978: 223-225; Company Reg. No. 30038359 of Intermeco Utrecht BV at the Utrecht Chamber of Commerce and Industry; Vrij Nederland, May 26, 1973; Tempo, April 16, 1977).

Jantje Lim, also known as Yani Haryanto, was able to build up his Harita Group, which has overlapping shares with the Soehartos in the sugar cane and logging industry (Robison 1991: 283). Between 1977 and 1985, Haryanto's Harita Group obtained a 10% share in PT Kelian Equatorial Mining in East Kalimantan, with Rio Tinto (then, CRA) as its foreign partner. This company is one of the largest gold mines in the world, producing 14 tonnes of gold and ten tons of silver per year (Shin 1989: 252-253; PDBI 1997, Vol. I, pp. A-350 - A-353; Swasembada, June 19-July 2, 1997: 36-37, 46).

During the first two decades of the dictatorship, Yani Haryanto was also the main financier of Kent Bruce Crane (born in 1935), an ex-CIA operative-turned-businessman, whose Crane Group was involved in supplying small weapons to the US and other governments. Crane also developed a close friendship with Soeharto, and helped one of Soeharto's sons to enroll in a college in Virginia. At one stage, President Ronald Reagan nominated Crane as US ambassador in Jakarta, but withdrew the nomination after the media exposed Crane's background. Yani Haryanto and his family, who spent much time in the US, bought several properties there, amongst others in Virginia and Texas, in addition to his properties in the Netherlands and in Kenya (May 1978: 225; Far Eastern Economic Review, Sept. 24, 1982: 14-15; The Wall Street Journal, Oct. 12, 1982).

Following his father's example, on February 13, 1992, Bambang Trihatmodjo and his wife, Halimah Agustina BT, signed a power of attorney for a Los Angeles-based businessman, Han Moeljadi, to represent them as their "true and lawful attorney" and thereby to act on behalf of them for their use and benefit. This power of attorney was signed in the US Embassy in Jakarta, witnessed by the Vice Consul, Landal L. Phillips. Consequently, numerous properties are listed at the land title office of the County of L.A. under the name of Han Moeljadi, with or without other individuals with "Moeljadi" in their names.

Utilizing Well-established International Law Firms and Financial Consultancy Firms:

In the early 1970s, the joint ventures of Liem Sioe Liong and Soeharto in the US was administered by Rubin Rubin & Dipaola Solicitors of 375 Park Avenue, New York City. This address

also housed the NY office of Greater Southeast Financial & Development Corporation Ltd. , which had close ties with Waringin Finance Ltd. The latter was allegedly managed by Jantje Lim and Liem Sioe Liong (May 1978: 225-226).

In later years, since 1978, the Indonesian government and the Soehartos began to prefer another law firm, White & Case LLP at 601 Thirteenth Street, N.W., Suite 600, Washington, DC, 20005-3807. In 1983, they allegedly charged the Indonesian government US\$ 3,090,711.49 worth of defense fees for the previous twelve months.

Since 1994, this law firm has defended Mrs. Soeharto's younger brother, Ibnu Hartomo, who was sued by a US businessman, Curtis Phaneuf, for selling untitled Promissory Notes worth US\$ 125 million. The case is still being tabled in Arizona. The fraud itself took place when Ibnu Hartomo was secretary of the National Security Council (Dewan Hankamnas) in Indonesia.

In Hong Kong, another law firm has played an important role in promoting the Soehartos business interests. Wilkinson & Grist Solicitors and Notaries is located at the Sixth Floor of the Prince Building on Chater Road, Central, Hong Kong. Using several other names with the same address, this law firm handles three forest product trading companies of Bob Hasan - Panelindo Co. Ltd. , Plywood Indah (HK) Ltd. , and Lakemba Ltd. Complementing Wilkinson & Grist's role is George Vasaris & Co.'s in Port Vila, Vanuatu. This law firm helped the Soehartos to set up Panca Holding Co. Ltd. in February 1985, and ten years later were allegedly also involved in setting up Dragon Bank International Ltd.

Another law firm which has provided its service to business interests close to the Soehartos is Baker & McKenzie, a multinational law firm with 2,600 attorneys operating from 61 offices in 35 countries. They manage the Hong Kong branch of Indover Bank NV and several Dutch companies linked to the Soehartos, such as the subsidiary of PT Daya Guna Samudera, and the fishing division of the large Djajanti conglomerate in which Sudwikatmono is involved.

In addition, two international law firms with its headquarters in the Netherlands, namely Nauta Dutilh and Loyens & Loeff, have been used extensively by the Soeharto-linked companies in the Netherlands. Nauta Dutilh is a leading European law firm, with more than 400 attorneys, civil law notaries and tax advisers. They handle the legal affairs of several of Bambang's Dutch financial subsidiaries, such as Usaha Gedung Bimantara Finance BV, Satelindo International Finance

BV, Plaza Indonesia Finance BV, and Powergen Holdings BV. In addition, Nauta Dutilh also handled the legal affairs of a transportation financing company in which Mrs. Rukmana had a stake, namely Steady Safe Finance BV, and the legal affairs of Rolls Royce Ventures (Nederland) BV, whose parent company once had Tommy Soeharto as its Indonesian agent.

Hand in hand with the use of international law firms, to bolster their reputation and simultaneously to protect them from eventual law suits, many overseas subsidiaries linked to the Soehartos have also utilized well-established financial consultancy firms. For instance, Hashim Djojohadikusumo used Ernst & Young to legitimize the accounts of the Dutch subsidiaries of his Paiton steam power plant in East Java, while Tommy Soeharto used PriceWaterhouseCoopers to legitimize the accounts of the Dutch subsidiaries of his AsiaPower Wayang Windu geothermal power plant in West Java.

Utilizing Local Businesspeople, Consultants, Foreign Politicians, and Cronies:

Many overseas ventures of the Soehartos and their cronies were trusted to local business people and consultants with access to the specific overseas markets. For instance, Permindo Ltd., the Hong Kong-based oil marketing company of Bambang Trihatmodjo - with branches in Singapore and the US - is managed by a British passport holder, Wong Chun Sum. He also helped the Soehartos in the early 1980s to register Panca Holdings in Vanuatu. This company held a monopoly over the import of raw material for Indonesia's plastic factories. After Panca Holdings was closed down, Wong Chun Sum's name is still listed on the board of Permindo, which is still located at the old office of Panca Holdings in Room F on the Eighth Floor of Winner Building at 27 D'Aguilar Street in Hong Kong.

While Permindo relied on Wong Chun Sum, Tommy Suharto's Hong Kong-based oil marketing company, Perta Oil Marketing Ltd, relied on the connections of an American oil consultant, Colonel George C. Benson. This former military attache at the US Embassy in Jakarta from 1957 to 1958 (Kahin & Kahin, 1995: 108, 236) was hired as lobbyist for the Indonesian oil company, Pertamina, in Washington, DC (New York Times, December 6, 1981). He is very well connected and befriended former Armed Forces commander, General Benny Murdani (Pour 1993: 581-582).

Another business consultant of the Soehartos is Edward Anwar. This Hong Kong-based Indonesian businessman runs the three plywood marketing companies linked to Bob Hasan which monopolised Indonesian plywood export to China, Hong Kong and Taiwan (Warta Ekonomi, May 18, 1998: 12-13; Jakarta Post, Sept. 29, 1998).

The joint ventures between Suharto-linked companies and US power and mining companies are strongly coloured by corrupt and unfair trading practices (Waldman 1998; Waldman & Solomon 1998). However, no US company has been taken to any US court for violating the 1977 US Foreign Corrupt Practices Act. On the contrary, attempts by former director of the Indonesian State Electricity Company, PLN, Adhi Satrya, to sue these joint ventures for overpricing have been blocked by Indonesian President Abdurrahman Wahid. The President suggested that the PLN chief solved his disagreement with the power producers through arbitration, not through litigation. In protest against President Wahid's intervention, which came after US President Bill Clinton had put pressure on Jakarta, Adhi Satrya resigned from his post on December 20, 1999 (.D & R, Dec. 27, 1999 - Jan. 2, 2000: 46-47; Tempo, Jan. 2, 2000).

Meanwhile, the US-based giant mining company, Freeport McMoRan, is also facing strong criticism for its poor human rights and environmental records in West Papua. In addition, the fact that most of the revenues from its Grasberg mine are flowing out of the country to its shareholders in the US and Japan, has also annoyed politicians in West Papua and Jakarta. In late February 2000, a number of ministers in the Wahid administration called for a review of the company's contract of work. Instantly, a chorus of protests was raised by the US ambassador in Jakarta as well as by Dr. Henry A. Kissinger, a prominent member of the Board of Director of Freeport-McMoRan (Satunet.com, Febr. 25-26, 2000; Detikcom, March 3-4, 2000; Astaga.com, Febr. 29, March 2 & 4, 2000; Antara, Febr. 26, 2000; Republika, March 4, 2000; Jakarta Post, March 6, 2000; Nostromo Research, March 7, 2000; Asia Pulse, March 10, 2000).

Kissinger had been employed by Freeport-McMoRan since the 1980s to work on projects in Indonesia, Burma, China and Panama. Each year, personally and through his company, Kissinger Associates Inc, he is paid hundreds of thousands of US dollars. In 1989 his firm was paid US\$ 800,000 in retainers and fees, and was also promised a commission of at least 2% on future capital investments made on the basis of its advice that year. When incumbent President

Wahid appointed Kissinger as his advisor, Kissinger said that he would take the job out of friendship with the Indonesian people and the importance he attached to the Indonesian nation (Waldman 1998; Leith 2002: 148; Freeport-McMoran Gold & Copper Inc. 1996: 46).

Kissinger's influence is, as far as the Soeharto family business interests are concerned, not limited to Freeport. The US\$1.6 billion Metro Manila Skyway which Mrs. Rukmana's PT Citra Marga Nusaphala Persada is currently constructing in the Philippines is also indirectly linked to the former US Secretary of State. This toll road is 15% financed by the American International Group, Inc. (AIG), through its subsidiary, the AIG Asian Infrastructure Fund. The Memorandum of Understanding of this joint venture was signed by Mrs. Rukmana and Paul Applegarth from AIG Asian Infrastructure Fund at the Mayfair Hotel in New York on October 23, 1995. This cooperation with AIG was well reported in Indonesia (see Indonesia Business Weekly, Nov. 25, 1994: 36, Sept. 11, 1996; Bali Post, Nov. 18, 1994; Warta Ekonomi, Nov. 6, 1995: 9). What was not reported in Indonesia was that this big insurer company, which derives 38% of its earnings in the Asia Pacific region, has Henry A. Kissinger on its board of directors, in addition to former US Trade Representative, Carla A. Hills, former US Treasury Secretary, Lloyd M. Bentsen, and former World Bank President, Barber Conable, Jr. (Business Week, Nov. 17, 1997: 128; The Economist, Febr. 8, 1997 (Adv.); Asia Business Review, Dec. 1997 (adv.).

These joint ventures between the Soeharto family and big US corporations have benefitted from their powerful political backers, who can exert pressure on the Indonesian government through formal and informal channels. Similar cases have been documented in other industrialised countries. In Germany, for instance, Habibie's friends in high places facilitated the joint venture between the German technology giant, Siemens, and a company owned by Soeharto's son, Bambang Trihatmodjo. The Memorandum of Understanding of this joint venture was signed by Bambang and a Siemens representative in front of then President Soeharto, then German chancellor, Helmut Kohl, and the perplexed director of the Indonesian state electricity company, PLN, Djiteng Marsudi, who had not been informed about this planned joint venture to build another steam power plant in East Java (Spiegel, May 29, 2000).

In addition to relying on powerful local politicians, the Soehartos also benefitted from using their Indonesian cronies to lobby the US administration on their behalf. One of Soeharto's

best lobbyists in the US was James Riady. During the 1992 presidential campaign of William (Bill) Clinton, the Riady family and their Lippo Group executives and associates "donated" a total of US\$ 1,050,000 to Clinton's campaign machinery, more than any other corporation, labour union, or Hollywood mogul (Timperlake & Triplett II 1998: 7).

James' father, Mochtar Riady, the founder and chairman of the Lippo Group, was initially recruited by Liem Sioe Liong to develop the Salim Group's financial flagship, Bank Central Asia (BCA). He obtained 17.5% shares in BCA, while Mrs. Rukmana and Mr. Harjojudanto jointly owned 30%. It became the largest private bank in Indonesia before the 1996 financial crisis (Soetriyono 1988: 44-64).

The Riadys were, however, not the only Soeharto cronies to lobby Clinton. Tommy Winata, whose Artha Graha group is also closely associated with the Soehartos, has also provided US\$ 200,000 illegal donations to Clinton's 1997 presidential campaign (Associated Press, Feb. 5, 2000).

Utilising International Banking Networks:

Foreign banks have provided an international financial network for the Soehartos to globalise their businesses, as we can see in the case of four major Dutch banks - MeesPierson, ABN-AMRO, ING Bank, and Rabo Bank - and Indover Bank, an Indonesian subsidiary of the Bank of Indonesia in Amsterdam.

MeesPierson NV is a Dutch investment bank which is part of the Fortis Group, a Dutch-Belgian banking and insurance group. Since the 1990s, its Amsterdam and Rotterdam based subsidiary, MeesPierson Trust BV has helped several Dutch-based Soeharto family-linked companies to mobilise capital from the European capital market, for instance, in oil palm plantations and palm oil production (see Aditjondro 2000f).

MeesPierson's affiliate in Aotearoa (New Zealand) is Firdaus Abdullah Siddik, the chairperson of the Indonesia-New Zealand Business Council. A very well connected person, his Siddik Group has several joint ventures with Ret. General Bustanil Arifin, former head of Indonesia's rice procurement agency, Bulog, whose wife is related to the late Mrs. Soeharto. He has a booming property business in Aotearoa (CISI Raya Utama, 1991: 633-636; The Independent ,

Oct. 25, 1996: 24), where he has sold two alpine chalets for NZ\$ 250,000 each in Queenstown to Mrs. Titiek Prabowo , as mentioned before.

The second and third Dutch banks which manage numerous financial subsidiaries of the Soehartos are ABN-AMRO and ING Bank NV (Aditjondro 2000: 19). ING Bank is involved in AsiaPower Ltd., the power generating arm of Brierley Investment Ltd, by being a co-shareholder in AsiaPower Wayang Windu BV. AsiaPower Ltd has a joint venture with Tommy Suharto in Mandala Nusantara Ltd. This company has in turn a Dutch subsidiary, Mandala Nusantara BV, in which AsiaPower Ltd is represented by Jason Hollingworth who originates from Christchurch and lives in Wellington. This strategy worked well, because even after the financial crisis hit Indonesia, AsiaPower Ltd was still contracted to build the first (110 MegaWatt) phase of the Wayang Windu geothermal power generating plant (Jakarta Post, June 13, 1998).

Mandala Magna Nusantara BV is a joint venture between Figears Ltd and Magma Power Corporation from the US (Warta Ekonomi, Dec. 12, 1994: 13). Interestingly, Figear Ltd was used by Tommy Suharto to bring crude oil to Pertamina's refinery in East Kalimantan for refining. Tommy's partner in this business was a young Malaysian businessman, Ananda Krishnan, who was a protege of Prime Minister Mahathir Mohamad (Friedland & Tsuruoka 1991: 56; Friedland & Schwarz 1990).

The fourth large Dutch bank involved with the Soehartos is Rabo Bank. It has formed two joint ventures with PT Bank Duta, which is co-owned by three of Soeharto's charities (see Aditjondro 2000f). In addition, its subsidiary in Utrecht, Rabobank Management BV, manages Edison Mission Energy International BV, which parent company is a co-shareholder of Hashim Djojohadikusumo's PT Paiton Energy.

Finally, Indover Bank NV, which has been discussed before in relation to Ibnu Harjanto and Jantje Lim, has been officially indicted for being used to transfer more than US\$ 400 million from one of Soeharto's charities to the Duta Bank of Soeharto and Bob Hasan. These funds came allegedly from Liem Sioe Liong and Bob Hasan (Kejaksaan Negeri Jakarta Selatan 2000; Far Eastern Economic Review, March 12, 1992: 42; Forum Keadilan, May 26, 1994: 38; Jakarta Post & Waspada, May 22, 1999).

The relationship between Indover Bank and Soeharto family companies seemed to have lasted for three decades. In the 1970s, Indover Bank handled the business transactions between PT Mercu Buana and the Malagasy clove traders, as shown by the company's clove business documents. Then, recently, Indover Bank has officially been accused by the Indonesian Attorney General for embezzling one billion US dollars from the Bank of Indonesia from 1993 to 1998 to numerous relatives and cronies of Soeharto (Slats 2000; Aditjondro 2000: 19-20). So far, only one of those loan recipients has been identified, namely A. A. Baramuli. A company owned by this close business associate and political supporter of Soeharto and Habibie received a US\$ 1.5 million loan from Indover, even though the bank was actually in the red at the time (Business Week, Febr. 28, Aug. 14, Aug. 31, 2000; Indonesian Observer, Aug. 29, 2000; Bali Post, Jan. 10, 2001; Jakarta Post, Feb. 5, 2001).

Hiding Assets in Global Multi-Layered Corporations:

The MeesPierson and ING Bank networks with Soeharto family-linked companies in Aotearoa, are still relatively simple arrangements. During the last five years, much more complex arrangements have been developed by the business operators of the Suharto family, to hide their bosses business interests.

To investigate Tommy Suharto's golf course near the Ascot horse racing circuit south of London, for instance, one has to peel away several layers of companies and be able to identify the key links with Tommy. First of all, Tommy Suharto and one of his business partners, Setiawan Djody, registered a company in the Bahamas, called V Power Corporation. That company was initially set up to buy into the US automotive industry, and with it Tommy bought 64% shares in Vector Automotive Corporation, which took over Chrysler's shares in the sports car company, Automobili Lamborghini SPa in Bologna, Italy. But that is a different story by itself.

V Power Corporation, as it later turned out, has an affiliated company in Hong Kong, called Avant Ilototo International Ltd. In 1998, these two companies joined forces to set up a new company, Onslow Developments Ltd., registered in Gibraltar, one of the UK's many tax havens. V Power Corporation owns 1,500 ordinary shares and Avant Ilototo International, 500 ordinary shares.

This Gibraltar-registered company then set up a London-registered company, to operate the golf course at Ascot. That company, Lazian Limited, appointed two Indonesian, one Singaporean, and one British citizen as directors of the company. The Indonesian and one Singaporean directors were also listed as principals of the Gibraltar-based company.

The Kalimanis Group, a much larger network of overseas companies controlled by Soeharto's golfing buddy, Bob Hasan, has yet more layers. Its overseas network of companies, which focus on forest products - plywood, paper, pulp - and insurance for the forestry and oil sectors, has at its core a company called PT Nusa Ampera Bhakti (Nusamba). On November 2, 1981, PT Nusamba was founded by Bob Hasan, Sigit Harjojudanto, and the managers of Soeharto's three top charities, Dakab, Dharmais, and Supersemar, who collectively controlled 80% of the shares. Hasan and Harjojudanto, meanwhile, each controlled 10% of the shares. On January 30, 1985, another company was set up by Hasan, called PT Fendiwood Indah. Its three equal shareholders were PT Nusamba, Hasan and a certain individual, Achmad Bakrie. This company eventually changed its name into PT Fendi Indah, without changing its owners (TBN No. 47/1982; TBN No. 91/1985; TBN No. 35/1988).

During seven years (1991-1997) as chair of the Indonesian Forestry Society (MPI), Hasan also chaired all MPI-affiliated business associations. Using his power as the 'chair' of all these organizations, he set up a number of overseas companies, which he claimed to be official marketing companies of the plywood association, Apkindo, and the furniture producers association, Asmino. Consequently, all Indonesian plywood and furniture producer were forced to market their products through these 'official' marketing channels. In addition, all Apkindo members were forced to use the ships of PT Karana Lines, a company co-owned by Bob Hasan and the Soehartos, and to insure their freight through PT Tugu Pratama Indonesia, an insurance company co-owned by the state oil company, Pertamina, and PT Nusamba (Prospek, Dec. 22, 1990: 76; Warta Ekonomi, Jan. 30, 1995: 30; Forum Keadilan, March 2, 1995: 81; Swasembada, Jan. 30-Febr. 19, 1997: 21; SiaR, Febr. 12, 1998; Business Times, March 5, 1998).

After Soeharto's downfall, MPI Reformasi, a breakaway reform group, demanded that the timber tycoon return between two and eight billion US dollars of fees he collected from 1991 to 1997. In the meantime, Nusamba-linked forestry companies have continued their expansion into the US, Canada, the UK, Germany, China, South Korea, Malaysia, Brazil and Chile, operating

under the name of the Kalimanis Group or the Timber Trade Federation. Nusamba-linked companies are, however, not limited to forestry, since Nusamba is also a shareholder in Tommy Suharto's Perta Oil Marketing Company and Bambang Trihatmodjo's Permindo Oil. Also, as mentioned before, Nusamba is a 35 % shareholder in the insurance company, PT Tugu Pratama Indonesia, which has subsidiaries in Hong Kong, Singapore, Manila, Vietnam and London. Ironically, in February 1999 Pertamina renewed the monopoly of PT Tugu Pratama Indonesia over all oil industry insurance businesses in Indonesia (Jakarta Post, Sept. 29 & Oct. 3, 1998; Suara Pembaruan, Sept. 30, 1998, Febr. 11, 1999; Kompas, Feb. 11, 1999).

ASEAN-ising the Soeharto Oligarchy:

In mentioning Tugu Pratama's overseas subsidiaries one touches on the main overseas business bastion of the Soehartos: the Association of Southeast Asian Nations (ASEAN). Since the early years of Soeharto's presidency, his main business partner, Liem Sioe Liong, spread his global business tentacles from Singapore in partnership with numerous Singaporean state companies. Liem's examples were quickly followed by Soeharto family members, such as Bambang Trihatmodjo, as well as the wife and the eldest son of Sigit Harjojudanto, who formed several joint ventures with Singaporean companies, including those co-owned by brothers and sons of Malaysian Prime Minister Mahathir (Backman 1999: 264, 296, 304-31).

Singapore and the nearby Riau Islands also attracted business associates and relatives of fellow bureaucrat-capitalists, such as former Research & Technology Minister B.J. Habibie (Aditjondro, 1998b: 87-89), and former Development Planning Minister Ginanjar Kartasasmita. Ginanjar's younger sister, Gunariyah Mochdie, is a co-shareholder in a large Singapore-based multinational shipping company, NOL, in which a Singapore state company, Temasek Holdings, is a large shareholder. In 1998, Mrs. Mochdie obtained 10% shares in the company and a seat on its board of commissioners.

From Singapore the Soeharto oligarchy spread its tentacles to all the other ASEAN members, in anticipation of the ASEAN-Free Trade Agreement (AFTA) (Aditjondro 1996a, 1996b, 1997a, 1997b, 1997c, 2000g).

Putting Eggs In As Many Overseas Baskets As Possible:

During the second decade of the dictatorship, the Soehartos and their cronies set up more overseas-based companies. The largest of these is the First Pacific Group, set up in Hong Kong in 1991, with Sudwikatmono as one of the four co-founders (Soetriyono 1988: 65-95; Backman 1999: 292-294). Later, after the First Pacific Group evolved into an international conglomerate, with total assets of US\$ 11.38 billion profits after taxation of US\$ 427.5 million in 1998 (First Pacific Corporation Ltd. 1998), the Soeharto children themselves began to set up their overseas business empires in oil and gas, cement and toll roads.

The most successful among these overseas companies is the Singapore-based Osprey Maritime Ltd (Prospek, July 1998: 20). This oil and gas shipping company is owned by Bambang Trihatmodjo and his partners and enjoys a 20-year (1986-2006) contract to ship LNG from ExxonMobil's Arun field in Aceh to South Korea, and an 18-year (1999-2017) contract to ship LNG from East Kalimantan to China, with the option to be extended for 10 years. This company also has a joint venture with ExxonMobil to ship LNG from Qatar to Turkey, and also delivers LNG from Australia, Algeria, Nigeria, Trinidad, Tobago and Puerto Rico to Boston. This covers 25% of the world's LNG trade (Osprey Maritime Ltd. 1998). Even after the company sold nearly 25% of its shares to a Norwegian shipping magnate, John Fredriksen in August 2000, Bambang and his colleagues still retained nearly ten percent of the company's shares, which had assets worth US\$ 1.27 billion with US\$ 228.7 million revenues in 1998.

Meanwhile, Soeharto's in-laws were not doing so badly either. The most internationalised conglomerate of theirs is the Comexindo Group of Hashim Djojohadikusumo, Titiek Prabowo's brother-in-law. Focusing on counter-trade (barter) between commodities from Indonesia with commodities from second and third countries, in early 1998 Comexindo had spread its network from Southeast Asia to the former Soviet Republics and Africa (Swasembada, Dec. 18, 1997-Jan. 7, 1998: 44-45).

Immediately after Soeharto stepped down, Hashim set up a new branch in Geneva with 2,8 million Swiss francs borrowed from Credit Suisse. This Geneva branch allegedly also prepared the Djojohadikusumo and Soeharto family businesses in the Middle East, managed out of Amman. This

Amman office was for a while managed by Hashim's elder brother, Prabowo Subianto, after he was sacked from the Army in August 1998 (Tempo, Jan. 2, 1999).

Exploiting Soeharto's International Position:

As President of the Republic of Indonesia, Soeharto enjoyed a lot of prestige at the Association of South East Asian Nations (ASEAN), the Asia Pacific Economic Cooperation Forum (APEC), the Non-Aligned Movement (NAM), and the Organization of Islamic Conference (OIC). He has exploited that prestige or allowed that prestige to be exploited to promote his family and friends' business interests. During his February 1997 state visit to Rangoon, Burma, for example, Suharto took along Mrs. Rukmana who signed a Memorandum of Understanding with a Burmese state company to build Burma's first toll road (Aditjondro 1997a: 43).

Similarly, in early April 1995, Soeharto was accompanied on a state visit to three Central Asian republics by Hashim Djojohadikusumo, which yielded lucrative business deals for companies connected to the Soehartos (Gatra, June 6, 1995). In the meantime, Hashim had formed a joint venture with a SLORC-linked company to build a one million ton cement factory in Burma (Aditjondro 1997a: 38-39, 42-43).

Without much public attention, another branch of the clan also branched out building on Soeharto's international profile. This is Raden Notosoewito, Soeharto's youngest brother, the village head in Yogyakarta who allegedly accepted a one billion rupiah donation from the district head which led to the death of the journalist, Udin, as mentioned before. In his capacity as chairman of the Kemusuk Somenggalan Foundation, the umbrella organisation of PT Mitra Usaha Sejata Abadi (MUSA), Notosoewito has ventured into the jungles of Central America. In the early 1990s, PT MUSA and 69 subsidiaries applied for more than a million hectares logging concession, plywood industry and trading house for home industries, with an investment of US\$ 149 million. To 'lubricate' those proposals, MUSA offered to renovate the presidential palace and allegedly also bribed lower ranking officials. MUSA eventually only obtained a 150,000 Ha timber concession, due to strong opposition from environmentalists and indigenous rights activists (SKEPHI Press Release, August 28, 1995; Sizer & Rice 1995: 10-15, 19-27; SKEPHI & IFAW 1996: 39-47; Suara Independen, Aug. 1995).

Banking in money laundering centres:

In addition to those normal business enterprises, the Soehartos also opened branches of their banks in the money laundering centers of the Caribbean (Bermuda, Cayman Islands, BWI and the British Virgin Islands) and the South Pacific (Vanuatu, West Samoa, and Cook Islands), in addition to their 'normal' bank accounts in Geneva, Amsterdam, Hamburg, Singapore, Hong Kong, Osaka and numerous other places in the world.

Dragon Bank International Ltd. in Port Villa, Vanuatu, is owned by Yayasan Harapan Kita, one of the yayasans headed by the late Mrs. Soeharto. This bank was allegedly involved in a scheme to launder billions of US dollars in mega-projects in Jakarta, Langkawi (Malaysia), and Guangzhou (China). Protests by foreign banks forced the Indonesian authorities to close its Jakarta representative's office in June 1996. However, Ibnu Widoyo, DBI's business partner in Jakarta (who happens to be Mrs. Soeharto's younger brother) was only briefly interrogated by the police who did not press any charges against him (Sinar, Sept. 9, 1995: 86-87; Infobank, April 1996: 54-55; Sydney Morning Herald, June 18, 1996; Bursa, June 4, 1996; Economic & Business Review Indonesia, June 26, 1996: 19, July 24, 1996: 16; Target, June 24-July 1, 1996: 18; Paron, June 29, 1996: 20; Warta Ekonomi, June 3, 1996: 16-22, 1996, July 1, 1996: 16-22; Neraca, July 18, 1996).

Two years later, during the special session of the MPR in mid November 1998, Dragon Bank's name resurfaced among the Jakarta finance community. Its Singapore branch was alleged to have dumped nearly US2 billion in the Jakarta market to stabilize the US dollar's exchange rate (Prospektif, Dec. 1998: 10-12).

Selling Properties To Business Partners:

After the international uproar over the Soeharto wealth was fanned by the Time cover story, attempts to sell some of the properties involved intensified. One of the properties to go was Tommy Soeharto's Lilybank Station in the Southern Alps of Aotearoa. Interestingly, it was not sold for the market price of N\$ 10 million, but was sold to a Singaporean business partner of Tommy, L.Y.A. (Alan) Poh - for only one NZ dollar (Sydney Morning Herald, Jan. 13, 1999; The Press, Sept. 25, 1999; The Foreign Post, Manila, Sept. 30-Oct. 6, 1999).

It sometimes happens in business that a property can be sold to a close friend or relative for a ridiculously low price simply to avoid the original (and, real) owner from having to pay certain obligations, or to prevent the property from being seized by a second party. Therefore, if a hunting resort worth NZ\$ 10 million is sold for NZ\$ 1 to another businessman, it is most likely that the original owner - in this case, Tommy Suharto - is indeed still the owner. Or it may be that he had to sell his Southern Alps resort to Alan Poh, simply to pay off other debts to the Singaporean businessman.

METHODS OF UNDERMINING OPPOSITION AGAINST SOEHARTO'S CORRUPTION:

Among the methods used by the Soeharto dictatorship to repress, incapacitate, or in general, undermine opposition to Soeharto's corruption, we can list eleven methods, namely:

- a. building a regime based on state terror;
- b. getting the military on the greasy bandwagon;
- c. abusing the power of the military and law enforcement agencies;
- d. censoring and extorting the media;
- e. assassinating vocal critics;
- f. forming a corrupt, nation-wide oligarchy;
- g. creating a pro-Suharto Muslim front ;
- h. provoking anti-Chinese sentiments;
- i. financing pro-Soeharto politicians; and
- j. developing counterdissident vigilante forces.

To take these one by one:

Building a Regime based on State Terror:

History has shown that presidential graft, or corruption of heads of state and governments

is always based on a regime of state terror, regardless of the economic system chosen by the nation-state (see for instance, the case of Nicolae Ceausescu of Romania, in Brooker 1995: 90). This fact is often overlooked by those who see Soeharto's corruption mainly as an economic issue - or (on the other side of the debate) those who see Soeharto's human rights violations - or his 'political crimes' - to be more important and more urgent to be dealt with than his corruption, or his 'economic crimes.'

In the case of Soeharto, the foundations of his regime of state terror were laid when he eliminated between a half and one million people between 1965 and 1966 through a joint operation of military and civilian groups who saw themselves carrying out an 'anti-Communist' crusade (Cribb 1990: 12; Caldwell & Utrecht 1979: 119). After this, the military became Soeharto's main apparatus of state terror to consolidate his authoritarian power, with support from paramilitary groups who could inflict the terror within the civilian realm. It is quite instructive, therefore, to underline the fact that one of the vigilante groups that was developed by the Soehartos is Pemuda Pancasila, which played a major role in killing 20 percent of the rubber plantation workers and many Chinese -Indonesians in North Sumatra (Budiardjo 1991: 190-191; Ryter 1998: 3, 8, 11-12).

Having laid the foundations of his political machinery, he used army death squads and other forms of state violence against any form of opposition to the state, whether they were religious protests, separatist protests, class based protests of workers, peasants and indigenous peoples, or broader political protests of students.

Sociologically speaking, the three groups which have been most heavily victimised by Soeharto's instruments of state terror, besides the political Left, are (a) Muslims, (b) people in provinces harbouring separatist aspirations, and (c) Indonesians of Chinese descent. As far as the Muslims are concerned, the two most notorious massacres during the New Order are the Tanjung Priok and Lampung massacres. On September 12, 1984, between 150 and 560 Muslim demonstrators were shot down by the army in the Tanjung Priok neighbourhood of North Jakarta. These demonstrators were protesting against the detention of their colleagues who refused to accept the government's plan to impose the state ideology, Panca Sila, on all political parties and mass organisations. The Jakarta army commander, Try Sutrisno, who later became Soeharto's vice president, and the then Armed Forces commander, L.B. Moerdani,

were the main perpetrators of this massacre (Tapol 1987: 20; Schwarz 1994: 172-172; Vatikiotis 1998: 127; Karim 1999: 162).

Five years later, on February 7, 1989, at least 246 villagers, including women and children, were gunned down by a joint army and police raid on the village of Talang Sari in Lampung, Southern Sumatra. Although the army accused the villagers of being Muslim fundamentalists, it later became clear that land tenure issues were at the heart of the matter. The then Col. A.M. Hendropriyono, who later became Minister of Transmigration under President B.J. Habibie, commanded the raid, but General Try Sutrisno bore the ultimate responsibility for the massacre as commander of the armed forces (Wertheim 1989; Schwarz 1994: 173; Ramage 1995: 144-145, 190-191; Vatikiotis 1998: 127; Karim 1999: 162; Heffner 2000: 163; Gatra, Aug. 22, 1998: 31-32; Jakarta Post, Sept. 2, 1998).

Apart from the Left and Muslims, people in provinces harbouring separatist movements have been specially targeted by the army's special forces, Kopassus (earlier called RPKAD and then Kopassandha), after combined land and air operations failed to crush the rebellions. In the 1970s and the 1980s, the highest death tolls were suffered by the people from West Papua and East Timor, where hundreds of thousands of people perished during the time that these two Melanesian provinces were under direct control of the Kopassus forces (see Aditjondro 2000a, 2000b, 2000c).

Then, in the late 1980s the spectre of war moved to the easternmost province of Aceh. During the ten years that the province was designated a daerah operasi militer (DOM) i.e. a military operations area - from 1989 until 1999 - more than 3,000 Acehnese were killed, with well over a hundred documented cases of rape. Numerous men and women were tortured and imprisoned, leaving thousands of children as orphans. Successive army commanders in charge of this 'Red Net Operation' (Operasi Jaring Merah) include Soeharto's son-in-law, Prabowo Subianto, who later became the Kopassus commander; Zacky Anwar Makarim, who later became the head of BIA, the powerful armed forces intelligence agency; Syarwan Hamid, who later became the Minister of Interior; and H.R. Pramono, who commanded the whole operation in his capacity as commander of the Bukit Barisan Army Command that covered Aceh and North Sumatra. The highest level of responsibility for the Aceh death toll lies on the shoulders of Soeharto as the supreme commander of the armed forces and his successive

armed forces commanders during that period, namely L.B. Moerdani, Try Sutrisno, and Feisal Tanjung (Robinson 1998; Al-Chaidar, Ahmad & Dinamika 1999: 192-202; Siegel 2000: 336-338).

Meanwhile, anti-Chinese purges began in a more covert form in the 1965 killings of suspected Communists, but was also carried out in an indirect form in West Kalimantan in October 1967. In order to flush out any Chinese sympathisers of the anti-Malaysia Sarawak guerilla forces, PGRS (Pergerakan Gerilya Rakyat Sarawak), the army instigated conflicts between the indigenous Dayak population and the Chinese settlers, causing a death toll of at least 300 ethnic Chinese with 55,000 ethnic Chinese displaced from the interior to coastal towns where food and medicine shortages caused more deaths (Polomka 1971: 166-167; McDonald 1980: 63-64; HRW 1997: 11).

Ongoing military operations in these rebellious provinces eventually created business opportunities for the military there, ranging from controlling timber concessions in Kalimantan and West Papua, to controlling ganja smuggling from Aceh to Southern Thailand (Siegel 2000: 338-339). The most systemic control of local businesses, however, took place in East Timor, where various joint ventures between Kopassus elements, the Soeharto family and certain Chinese Indonesian businesspeople controlled the entire territory's business life uninterrupted for more than two decades. These were protected first by General L.B. Moerdani and later by Prabowo Subianto (see Aditjondro 2000b: 179-196). We will, however, deal with the link between the military businesses and the Soeharto oligarchy in the following section.

Getting the Military onto the Greasy Bandwagon:

To ensure the military's continuous support for the Soeharto regime, quasi-military rule had to be guaranteed. Politically, this was done by propagating the "dual function" doctrine (dwi fungsi) which justified the military's role beyond its defence function, and promoted military businesses economically. This promotion of military businesses had actually begun before Soeharto seized the presidency, with the takeover of oil fields and plantations in Sumatra by the Army after these assets had been abandoned by Dutch and British corporations, forced out of the country due to Indonesia's confrontation with the Netherlands and the U.K. Likewise, the "dual function" doctrine also had its roots before Soeharto's presidency, and arose from

the competition between the Army and the Indonesian Communist Party (PKI) for hegemonic control over the country's political and economic systems (Caldwell & Utrecht 1979: 123-125; Crouch 1988: 273-278)

After Soeharto's coup d'etat in 1965, the armed forces' economic role obtained a further push when the military was rewarded for its support in crushing potential Leftist opposition in Indonesia with concessions in every field of the economy. Following Soeharto's own example, military "charities" began to flourish, with nearly every military unit forming a business unit, supposedly to supplement the meagre budgetary allocation to the armed forces with funds which would improve the welfare of the rank-and-file soldiers and police officers. Eventually, the 32-year dictatorship left a legacy of numerous military charities and cooperatives all over the country and in all important economic sectors. These would, in turn, be closely linked with business enterprises owned by the Soehartos and their cronies (Iswandi 2000: 103-245).

Among all these two of the most powerful are the Kobame (Korps Baret Merah) Foundation and the Kartika Eka Paksi Foundation. The Kobame Foundation is linked to the Army's special force, Kopassus, which owns the new Graha Cijantung mall on Kopassus land south of Jakarta, and part-owns the Horizon Hotel in Jakarta, a timber concession in Kalimantan, a methanol distribution agency, a Java-Sumatra shipping line, and a coal brickette company also part-owned by Suharto's eldest son, Sigit Harjojudanto (Aditjondro 1998b: 32-36; Samego et al 1998: 82-83, 89-90; Iswandi 2000: 167-168).

Kobame's assets, however, are negligible compared to the assets of the Kartika Eka Paksi Foundation, which is a co-shareholder with two Indonesian tycoons - Tomy Winata (born 1958) and Sugianto Kusuma (born 1951) - who injected capital into a new conglomerate, called Artha Graha, in 1985. This Artha Graha (lit.: "house of money") Group, has Rp 3.7 trillion worth of assets, including joint ventures with Bambang Trihatmodjo in communication satellites and a fishing fleet in the Banda Sea (Aditjondro 1998b: 32-36; Samego et al 1998: 79-81, 88-89, 92-95; Iswandi 2000: 160-164).

Artha Graha's operations are not limited to the economic sphere, however. Their top executives, Tomy Winata and Sugianto Kumala, are also linked to Jakarta's underworld, including Yorris Raweyai, a leader of Pemuda Pancasila (Pancasila Youth), Indonesia's largest organisation

of political thugs. The chairperson of this organisation, Yapto Suryosumarno, is close to the Soeharto kids, and is also the son of a retired general and member of the Mangkunegara court in Solo (Central Java), to which the late Mrs. Suharto and Tommy Suharto's wife belong (Aditjondro 1998b: 25-26).

Meanwhile, the Kopassus forces themselves never found themselves running out of funds to carry out their 'counter-insurgency' operations. Apart from funds from their commander's brother, Hashim Djojohadikusumo (Pura 1993), forty ethnic Chinese tycoons used to contribute ten million rupiah (US\$ 1,000) a month each to Kopassus to enable its units to have the best equipment and training. They even built a mess hall for the Kopassus base in Cijantung shortly before the May 1998 riots. The understanding was that the businessmen would never have to worry about the security of their families and property. The payments ceased after the riots, when the businessmen felt deeply betrayed (Straits Times, March 11, 2000).

Abusing the power of the military and law enforcement agencies:

Since the early 1970s, Soeharto has abused the power of the military and law enforcement agencies to repress his critics. Many student leaders, academics, former civil servants and retired officers who criticized the construction of Mrs. Soeharto's 'Mini Indonesia' theme park, the Soeharto family ranch in Tapos, West Java, and the Soeharto family mausoleum in Central Java have landed in jail, lost their jobs, or had their business licences revoked during the 30-odd year dictatorship.

One of the most well known case is of Mohamad Jasin, a retired general who had assisted Soeharto's anti-Communist purges in East Java, and who resigned from his post as Secretary General of the Department of Public Works in protest against the abuse of power by Soeharto to build the 700-Ha Tapos ranch. After writing a public letter to Soeharto in May 1980, Jasin was interrogated by the military police for several days and stripped for all his public rights as an Indonesian citizen. Eventually, the Attorney General announced that Jasin had expressed his regret and apologised to the President. Only after the dictator was forced to step down, Jasin was able publish his autobiography, denying that he had ever apologised to Soeharto for his so-called misbehaviour (Hendrowinoto et al 1998).

Censoring and extorting the media :

In addition to abusing the power of law enforcement agencies, Soeharto's Ministers of Information repeatedly repressed the government's critics by censoring the media and imprisoning their editors. At the same time, however, one former Minister of Information, Harmoko, enriched his and Soeharto's families by forcing publishers to provide shares for them and their family in those companies. Harmoko also provided broadcasting licences to the Suharto children to establish their own television broadcasting stations by abusing the facilities of the station of the state television company, TVRI (Hill 1994: 99-103; Aditjondro 1998b: 4, 10).

Assassinating Vocal Critics:

Occasionally, politicians and journalists who exposed or were planning to expose the corruption of the President and his family died mysteriously. One of the most well-known cases is the death of Subchan Zainuri Echsan, a 42-year old leader of Nahdlatul Ulama and deputy leader of the MPR in a road accident in Saudi Arabia in January 1972. As he told AFP correspondent, Brian May, before leaving for the pilgrimage, Subchan was planning to expose Soeharto's links with several Indonesian tycoons who had invested their ill-gotten wealth in Singapore. After Subchan's death May published these allegations (1981: 255-256, 267, 288, 299-300), and was consequently expelled from the country.

As a foreign correspondent, May's lot was much better than Fuad Muhammad Syafruddin, popularly known as Udin. This Indonesian journalist died in a hospital in Yogyakarta on August 16, 1996, three days after being attacked by two unknown men at night outside his rented home. It is believed that the attack was related to Udin's exposure of the corrupt links between a local district head and Soeharto's stepbrother, R. Noto Suwito. Although the district head, Col. Sri Roso Soedarmo, 53 years, was eventually court-martialed for allegedly promising a one billion rupiah "donation" to Soeharto's Dharmais Foundation if he were re-elected, Udin's murderers have not been brought to justice (Hendratmoko 1997; Marpaung 1999).

Forming A Corrupt, Nation-Wide Oligarchy:

As all the previous examples show, Soeharto has intentionally involved very many of his civilian and military co-workers in his family businesses - and thereby created an oligarchy, where most of the bureaucrats (from the national capital to the provinces) were also tainted with various forms of corruption. One of his closest confidants, who accepted the presidential baton from Soeharto is B.J. Habibie. The Habibie family is closely involved in many sectors of the Soeharto family businesses (Aditjondro 1998b, 1998c; Pandie & Kartoredjo 1998: 129-136).

Habibie is, however, not the only 'bureaucrat-capitalist' with close family business ties to Soeharto. Former Information Minister Harmoko and his relatives are involved in numerous print and electronic media co-owned by the Soeharto family. In toll road companies, relatives of former Public Works Minister Radinal Mochtar and former Minister of Transmigration and Resettlement, Siswono Yudohusodo, are involved with Mrs. Rukmana's companies. In power generating companies, meanwhile, the Soehartos have involved relatives of former Development Planning Minister, Ginanjar Kartasasmita, former Minister of Trade and Industry, Hartarto Sastrosoenarto, and former Minister of Mining, I.B. Sudjana. Relatives of Ginanjar Kartasasmita and companies owned by former Employment Minister, Abdul Latief, are also deeply involved in subcontracting projects from the Freeport Indonesia copper-gold-and-silver mine, in which Bob Hasan's Nusamba Group represents the Soeharto family (Backman 1999: 300-304; Waldman 1998; Waldman & Solomon 1998; Pandie & Kartoredjo 1998: 137-156; Swasembada, July 3-17, 1997: 12-13; Nusa, Oct., 26, 1998; Infobisnis, Jan. 1999: 26-27).

The sons and daughter of Soeharto's former economic czar, Radius Prawiro, who Soeharto assigned to lobby for economic assistance during the peak of the economic crisis in 1996-1997, are happily involved in companies co-owned by the relatives of Soeharto, Habibie, and Bustanil Arifin, from Batam to New Zealand. On New Zealand's Southern Island, one of Radius' sons, Loka Manjan Prawiro, co-owns a real estate company which built the luxurious chalets in Queenstown sold to Titiek Prabowo several years ago (Informasi, Dec. 1998: 38-41; Australian Financial Review, June 4, 1999).

Even brothers of Ret. General L.B. Murdani, who was sacked from his post as armed forces commander in the early 1990s after criticizing the Soeharto siblings' business appetite (Ramage

1995: 99; Mietzner 1999: 65) are involved in companies close to Soeharto. Harry Murdani owns shares in a crocodile farm-piggery-and-orchid farm on Bulan Island near Singapore, with Anthony Salim, Tommy Suharto, and Timmy Habibie (Soetriyono 1988: 119, 122; Aditjondro 1998b: 85-86). Two other brothers, Sandy and Mudjono, are involved in a plywood operation in South Kalimantan with the Salim Group of Liem Sioe Liong and Sudwikatmono. Mudjono is also involved in a palm oil export company co-owned by the family of Ret. General Yoga Sugama, former intelligence chief whose wife is related to the late Mrs. Soeharto (PDBI 1994: B-167 - B-168; CISI Raya Utama 1997: 255-256, 708-710; D&R, Dec. 20, 1997: 91).

This oligarchic pattern is duplicated on the provincial level by the involvement of relatives of governors with the family businesses of Soeharto and other national bureaucrats. Bali is probably the most outstanding example, where the sons of the then Governor I Gusti Bagus Oka were deeply involved in Soeharto family businesses. He is currently being investigated by prosecutors for alleged corruption of between Rp 1,6 and 2,6 billion (Aditjondro 1995; Denpasar Post, Oct. 24, 2000).

In contrast to Bali, in Central Sulawesi one can talk about a dynastic regeneration of the former governor, Abdul Aziz Lamadjido, aged 68. His son, Rully Arifuddin Lamadjido, who served as mayor of Central Sulawesi's capital, Palu, during his father's tenure as governor, has recently been nominated as a candidate for the governorship by the provincial parliament. In fact, during Lamadjido's tenure as governor, several other sons were serving in powerful positions. One son, Syafrudin (Rudy) PBA Lamadjido, became the provincial head of the state electricity company, PLN. At the same time, his brother, Rendy Afandy Lamadjido, was the head of the district's civil engineering contractors association, Gapensi, while on the national level, a younger brother of Ginandjar Kartasmita was the head of the national board of Gapensi. Hence, it was suspected that the proposed Lore Lindu hydropower plant in Central Sulawesi was strongly supported by the Lamadjido clique in Palu as well as by the Kartasmita clique at the national level. Lamadjido Sr. was also accused of turning their province into his private kingdom. Understandably, Lamadjido Jr.'s current nomination as candidate for governor raised concerns of vote buying in the provincial parliament (Prospek, Jan. 18, 1992: 30-31; Surya, April 20 & 25, May 4, May 7, Dec. 31, 1994; Suara Pembaruan, Jan. 16, 1994; Media Indonesia, Jan. 28, 2001).

This nation-wide oligarchy serves as an 'insurance policy' or political buffer for Soeharto after his downfall. Too many heads may roll, if Soeharto is seriously investigated and tried for corruption.

Creating a Pro-Suharto Muslim Front:

After movements within civil society increasingly opposed his monolithic rule and corruption, Soeharto began to create a pro-Suharto Muslim front by taking three important steps. Firstly, in June 1991 he took his entire family and Muslim cabinet members to do the haj, and changed his name into Haji Muhamad Suharto. Secondly, through one of his charities, Yayasan Amal Bhakti Muslimin Pancasila, he began to donate huge funds to construct mosques and Muslim boarding schools (pesantren) all over the country. Thirdly, he supported the establishment of the Indonesian Muslim Scholars Association (ICMI), headed by his favourite Research & Technology Minister, B.J. Habibie (Ramage 1995: 63-65; Aditjondro 1998b: 49, 68, 125-126).

While undermining the civilian opposition by the formation of ICMI, Soeharto's son-in-law, General Prabowo Subianto, who commanded the elite forces of the army (Kopassus) and later commanded the Army's strategic reserve forces (Kostrad) also began to split the ranks of ABRI along religious lines. This was done to blur the real division between Suharto loyalists and Suharto opponents, who were labelled as supporters of a retired general, L.B. Murdani (a Catholic) and were supported by a Catholic-dominated think tank, the CSIS (Centre for Strategic and International Studies). This, ironically, was Soeharto's main think tank and lobby group during the first two decades of his rule.

In addition, Prabowo also supported the establishment of a group of staunchly anti-Communist and anti-Christian Muslim militants, called KISDI (Indonesian Committee in Solidarity with the Muslim World). This tactic was specifically aimed at undermining the growing anti-Suharto movement among the two Muslim organisations, Nahdlatul Ulama and Muhammadiyah, whose respective leaders, Abdurrahman Wahid and Amien Rais had become increasingly critical of Soeharto. These two Muslim leaders had about sixty to seventy five million followers, and what had made it worse for Soeharto was that the two Muslim leaders, especially Wahid, had begun to form loose alliances with Soeharto's nemesis, Megawati Soekarnoputri, whose father had been overthrown by Soeharto.

Three other generals, Feisal Tanjung, Hartono and Syarwan Hamid cooperated closely with Prabowo Subianto to undermine the growing opposition to Soeharto. With financial assistance from Habibie and Mrs. Rukmana, they unsuccessfully tried to oppose Wahid as Nahdatul Ulama's chairman. They set up the Centre for Policy and Development Studies (CPDS), which received generous donations from the Soeharto family and was run by a handful of Muslim intellectuals loyal to the regime with close links to the ruling party, Golkar. This think tank issued quasi-scientific political analysis papers which warned Soeharto of the potential danger of the Megawati and Wahid so-called "red-and-green alliance" (Fealy 1996: 261-276; Ekloef 1999: 73, 208, 216; Mietzner 1999: 69-79; Hefner 2000: 151-152, 171-175, 181-183).

In late 1996, Hartono broke away from CPDS to support Mrs. Rukmana's presidential ambitions since Tanjung and Hamid had put their weight behind Habibie. Prabowo, Syarwan Hamid, and Feisal Tanjung then set up the Institute of Policy Studies (IPS). Under the directorship of Fadli Zon, a former CPDS staff member, this new think tank attempted to split the student movement, by mobilising thousands of Habibie supporters who nearly physically attacked the students at the parliament building on May 22, 1998, and who refused to accept the presidential handover from Soeharto to B.J. Habibie (Aditjondro 1998b: 19; Ekloef 1999: 216; Ryter 1999; Hefner 2000: 196).

Provoking anti-Chinese Sentiments:

To further divert attention from the wealth accumulation of his family, Soeharto undertook systematic steps to influence the public to blame top Chinese business people for Indonesia's economic problems. On March 4, 1990, Soeharto summoned Indonesia's 31 top business leaders to his Tapos ranch where, in front of the state-controlled television cameras, he appealed them to transfer 25% of their shares to cooperatives (Schwarz, 1994: 98-101). Since only two of the guests were non-Chinese and Suharto's own relatives and indigenous cronies were absent, this staged and highly publicized meeting reinforced the popular belief that the Chinese minority were the main benefactors of Indonesia's fantastic economic growth.

Then, after the 1996 financial crisis, with the enthusiastic help of his ambitious son-in-law, General Prabowo Subianto, Soeharto escalated the campaign to blame the Chinese

business minority for Indonesia's economic problems. This eventually led to the infamous anti-Chinese riots in May 1998 after four students had been shot dead at the Trisakti University campus in Jakarta. Forces loyal to General Prabowo Subianto were allegedly involved in these riots, which resulted in 1,188 deaths among the Jakarta poor and gang rapes of 129 Sino-Indonesian women (Ryter 1998: 71; Ekloef 1999: 134-143, 182-189; Mietzner 1999: 72, 78-80).

Financing pro-Suharto Politicians:

Since Soeharto stepped down on May 21, 1998, and his successor was forced to hold a genuine, multi-party election, several of his relatives have actively financed old and new political parties. Probosutedjo, Soeharto's stepbrother, admitted 'donating' 300 million rupiah to PNI Massa Marhaen, after a congress of this party in late January 1999 elected him as the party's president (Gatra, Feb. 13, 1999: 39). This party eventually obtained a seat in the parliament (IFES 2000), occupied by Probosutedjo himself.

While Probosutedjo focused on one nationalist party, Ibnu Hartomo catered for a wide range of smaller political parties. At his luxurious mansion in the Condet neighbourhood in Southern Jakarta, Hartomo, who is accused of issuing three billion US dollars of untitled promissory notes when he was the secretary of the National Defense and Security Council (AFP, Aug. 26, 1998; Dow Jones Newswire, Sept. 25, 1998), and is implicated in a 19 billion rupiah counterfeit money scandal (Irawan 2000: 97, 101, 107), hosted regular meetings with dozens of smaller parties, which were allegedly financed by the Suharto family. Three of those parties obtained a seat in the parliament (IFES 2000; SiaR, Jan. 15, 1999; South China Morning Post, Feb. 2, 1999; Tempo, Feb. 15, 1999: 28; Xpos, April 4-11 April 11-17, 1999).

In addition to financing political parties, the Soehartos have also financed politicians who worked for the new election supervision committee, KPU, which oversaw the first post-Soeharto election in June 1999. One of them is Faisal Tamin, a former secretary general of the Home Affairs Ministry and also former secretary of the Indonesian Red Cross when it was headed by Mrs. Rukmana. The other one is Agus Miftach, a former crony of Bob Hasan, who used to facilitate the 'Condet meetings' of small parties financed by Ibnu Hartomo. Their presence in the KPU ensured the impotence of the committee in enforcing the prohibitions against excessive

political donations and vote buying, enshrined in Law No. 2 and No. 3 of 1999, by focusing the KPU members attention on the perks to which they themselves were entitled (SiaR, Jan. 15, Feb. 20, 1999; Xpos, April 4-11, April 11-17, 1999; Jakarta Post, April 15, 2000).

Developing Counter-dissident Vigilante Groups:

As is the case in other corrupt dictatorships (such as the Marcos dictatorship in the Philippines - see Kowalewski 1990, 1991), counter-dissident vigilante groups have been widely used to repress critics of Soeharto's corruption. Some of their ill-gotten wealth went therefore into financing pro-Soeharto vigilante groups. In fact, a rather sophisticated network of vigilante groups emerged during the last decade of the Soeharto dictatorship, and even after Soeharto's fall from power, vigilante groups were still employed by the family to intimidate law enforcement agencies and students who continued to call for Soeharto's trial. The following groups, at least, warrant special discussion, namely Pemuda Pancasila, Satria Muda Indonesia, KISDI, Front Pembela Islam, Satgas Tebas, Hartono's and Indra Hasan's groups.

Pemuda Pancasila (Pancasila Youth) was founded in Medan, North Sumatra on October 28, 1959. As mentioned earlier, this organisation played a major role in killing 20 percent of the rubber plantation workers and many Chinese-Indonesians in that province. It is currently led by Yapto Suryosumarno, a close friend of the Soeharto kids, and also the son of a retired general and member of the Mangkunegara court in Solo in Central Java to which the late Mrs. Tien Suharto and Tommy Suharto's wife belong. In the early 1980s, this organisation assisted the Army's special forces (Kopassus) to purge petty criminals all over Indonesia, which was known as the Petrus (*penembak misterius* = mysterious killer) campaign. Then, during the last years of the Suharto dictatorship many pro-democracy leaders have felt the brunt of Pemuda Pancasila thugs, who have attacked their public rallies and attempted to turn peaceful demonstrations into violent riots (see Ryter 1998).

During that last decade of the dictatorship, General Prabowo Subianto also began to form his own vigilante group, trained and led by people expelled from the military academy in Magelang, Central Java, for misbehaviour. These drop-outs, called 'Tidar Boys' from the name of the hill in the center of the military academy, mobilised members of martial art groups in Java to join this

network, facilitated by Prabowo's position as Kopassus commander. Prabowo himself led a martial art group, Satria Muda Indonesia (SMI), associated with the national martial arts association, IPSI (Ikatan Pencak Silat Indonesia). While Prabowo financed SMI activities, his brother-in-law, Bambang, was a patron of another martial arts group, Pencak Silat Tenaga Dasar (PSTD), which was also an associate organisation of IPSI.

They generously sponsored the activities of IPSI, which was headed by Ret. Major General Eddie M. Nalapraya, a co-shareholder of Bambang's television station, RCTI (Maryono 1999: 354, 362-365; Iswandi 2000: 131). So, with those close links, it would not be difficult to use IPSI as a front for the family's 'private army'.

When Soeharto was forced to step down and Prabowo was also sacked from the military, SMI initially suffered a major blow. It has currently recovered from the blow and is aggressively recruiting new members from high school and university students in Jakarta and West Java, with an active membership of 100,000 persons. Several 'Tidar Boys' continued to coordinate this martial arts network and are recruited in companies owned by Bambang, Prabowo's younger brother, Hashim Djojohadikusumo, and their cronies from the Kodel Group.

As mentioned earlier, Prabowo also supported KISDI (Indonesian Committee in Solidarity with the Muslim World), which was born out of the mass gathering in solidarity with the Bosnian Muslims in front of the Al Azhar Mosque in South Jakarta in mid February 1994. The public gathering decided to send volunteers to Bosnia-Herzegovina and to raise funds to build a mosque in Sarajevo, to be named the Haji Mohamad Soeharto Mosque. To facilitate these two goals the National Committee for Solidarity with the Bosnian Muslims (Panitia Nasional Solidaritas Muslim Bosnia, or PNSM Bosnia) was formed, chaired by Probosutedjo.

Fund raising was carried out for three years through an account at Probosutedjo's Bank Jakarta. After this private bank was closed down, it was revealed by the Bank Jakarta Clearance Team (*Tim Pemberesan Bank Jakarta*) on April 14, 1998, that there was still nearly 2.8 billion rupiah in that account (and, meanwhile, no Soeharto mosque has ever been built in Sarajevo. The millions of dollars of donations that reached the Indonesian Embassy in Budapest allegedly disappeared into the personal bank accounts of the ambassador, Hasan Abdul Djalil at the Hungarian Republican Bank, MKB.

The next vigilante group, Front Pembela Islam, (FPI), or Front of the Defenders of Islam, was founded in Jakarta on August 17, 1978 by Muslim preachers of Arabic descent, who call themselves *habaib* (the beloved), since they consider themselves to be descendants from the Prophet Muhammad's daughter. This organisation claims to have branches in sixteen provinces with a total membership of ten million people. In Jakarta area alone its membership is claimed to reach 50,000 people. It first became known for its involvement in the so-called 'self-help security guards' (PAM Swakarsa) which fought on the side of the police and military against the student activists in Jakarta who opposed the endorsement of Habibie's presidency in the Special Session of the MPR in November 1998. Consequently, these militant Muslim vigilante groups, who became famous for their Arabic robes, beards, and swords, regularly raided bars, cafes, discos, steam baths and other places of entertainment and vice in Jakarta, West Java, and even the south Sumatran province of Lampung (Simanjuntak 2000: 54-60, 113-117; Tempo, Jan. 23, 2000: 39-46; Jakarta Post, June 15, June 23, Nov. 1, Nov. 27 & Dec. 16, 2000; De Volkskrant, June 26, 2000;

The initial support for FPI came allegedly from General Wiranto, as Defense Minister and Armed Forces Commander during the Habibie presidency. Carrying out Wiranto's orders were Kivlan Zein, then Chief of Staff of the Army's Strategic Reserve (KOSTRAD), Djadja Suparman, then Jakarta Army Commander, and Nugroho Djajusman, then Jakarta Police Commander. They created the so-called 'self-help security guards' to defend the MPR Special Session which legitimised Habibie's presidency in November 1998. Since that time, Wiranto, Djadja Suparman, Kivlan Zein, and Nugroho Djajusman are believed to provide the main political backing for FPI (Gatra, Jan. 1, 2000: 74).

Those active and retired officers are allegedly still funding a portion of FPI's activities, due to their access to the financial assets of army and police "charities". In addition, FPI is allegedly also funded by Mochsin Mochdar, a brother-in-law of former President Habibie, who controls the third financial arm of the Habibie clan's business empire, Citra Harapan, and whose brothers Aziz and Hamid are commissioners and directors in Bambang's Bimantara Group (Aditjondro 1998a: 93-97; Aditjondro 1998b). It is most likely, therefore, that the Soehartos also channel their funding to FPI through the Mochdar brothers.

In the second semester of 1998, these vigilante groups were joined by the Satgas Tebas group, which operated under the umbrella of YAKMI (Yayasan Kesejahteraan Masyarakat Indonesia), a new charity formed by Mrs. Rukmana and a crony of the Soeharto family, Ret. Major Abdul Gafur in May 1998. In addition to the earlier mentioned vigilante groups, Satgas Tebas provided many so-called 'self-help civilian guards' (PAM Swakarsa) who demonstrated against the student activists in November 1998 (Simanjuntak 2000: 89-102, 178).

Abdul Gafur, who is from a mixed North Maluku-Achehnese descent, has also organised predominantly Muslim Moluccan gangsters to explode the social political powder keg of Maluku (see Aditjondro 2001d). He is, however, not the only retired officer who is allegedly still close to Mrs. Rukmana. Hartono, the former Army commander who publicly donned a Golkar jacket to join Mr. Rukmana's campaign for the then ruling party, is allegedly still close to the former dictator's eldest daughter. As discussed earlier, Hartono and Mrs. Rukmana were both involved in the Centre for Policy and Development Studies (CPDS), and pulled out from that right wing Muslim think tank when Hartono's colleagues began to put their weight behind Habibie.

In April 2000, Hartono formed a new organisation, Karya Peduli Bangsa (National Concern Activities), which claimed to have chapters in fourteen provinces with plans to open eight more chapters. KPB mobilised tens of thousands Muslims in the new province of Banten (formerly part of West Java), to demonstrate against President Wahid's suggestion to abolish the 1966 MPR ban on Marxism and Leninism (Indonesian Observer, April 7, 2000; Jakarta Post, May 29, 2000; Garda, Jan. 14, 2001: 22).

Currently, using the Dayak massacres of Madurese migrants in Central Kalimantan (see Aditjondro 2001c) as a pretext, Hartono, who is of Madurese descent, has attempted to use a Madurese organisation, IKAMRA (Ikatan Keluarga Madura), to turn the ethnic conflict into a religious conflict. Meanwhile, FPI and other Muslim militant organisations, have immediately staged demonstrations in Jakarta and Solo, accusing US NGOs, missionaries and Zionists for supporting the massacres of Muslims, and calling for all Christian missionaries to be arrested. IKAMRA itself, which had carried out pro-Megawati demonstrations in the past, has called for the extermination of all Dayak people, to revenge the Madurese massacred in Kalimantan (Bangsaku.com, Febr. 26 & 28, March 2 & 8, 2001; Berpolitik.com, March 8, 2000; Jakarta Post,

Febr. 28, 2001). Since joining rent-a-crowds has become a way of earning a living for many poor villagers in this poverty stricken country, many believe that these demonstrations are still financed by Mrs. Rukmana and provoked by Hartono.

Finally, let us briefly look at Tommy Soeharto's vigilante groups. While student demonstrations were still demanding Soeharto's trial, Tommy formed his own vigilante group, led by Indra Hassan. This 47 year old, well-built man from the island of Flores, who usually wears Muslim dress, lives in a luxurious two-storey mansion in Jatiwaringin, Eastern Jakarta. This local gangster was first recruited by Tommy to supervise reconstruction work carried out by his Humpuss Group after the 1993 earthquake hit Flores. After dozens of new parties emerged during the interim rule of President Habibie, he joined a small party, Partai Republik, but failed to obtain enough votes in Flores for a seat in the parliament. He moved to Jakarta, where Tommy provided him with a desk at the head office of the Timor car manufacturing company. In this capacity, he often acted as a debt collector for the company, and mobilised thugs to defend the company's property from others. During those mass actions, Indra Hasan's thugs donned Muslim dresses and chanted Muslim prayers.

Hasan is in charge of about 300 men, ranging from university graduates to former Tanjung Priok political prisoners. They allegedly received military training in Lido, south of Jakarta. Then there are still around 800 Florenese youth who were recruited by Tommy for the reconstruction work on Flores, and who also joined Indra Hasan in Jakarta. They guarded the Soeharto mansions during the student demonstrations. These two groups under Indra Hasan have provided the bodyguards for Tommy during police interrogations, which led to the trial at which Tommy was convicted of swindling Rps 76.7 billion in public funds through a property-for-equity swap and sentenced to 18 months imprisonment (Jawa Pos, May 11, Nov. 5, 2000; Jakarta Post, May 11, Nov. 29, 2000; Rakyat Merdeka, Jan. 1, 2001; Nusa, Jan. 9, 2001; Gatra, Jan. 20, 2001: 63-65). Hence, when Tommy Soeharto escaped from police custody earlier this year, Indra Hasan was the first person to be arrested. In the absence of a more serious evidence, he was only charged with illegally owning a Colt 32 gun (Rakyat Merdeka, Jan. 7, 2001) and has since been released from custody.

THE IMPACT OF PRESIDENTIAL GRAFT ON THE INDONESIAN ECONOMY, STATE AND SOCIETY

After exposing the methods by which the Soeharto oligarchy accumulated and globalised its wealth, and following that with a description of the repertoire of means they employed in protecting that wealth by repressing their critics, it is now the right time to discuss the impact of presidential graft on Indonesia. In this section I will outline the impact on the economy, the state and the society, using both quantitative as well as qualitative data wherever it is available and relevant.

Impact on the economy:

This unbridled accumulation of wealth, which has involved the three generations of Soeharto's family and the families of at least two of their in-laws (the Kowaras and the Djohadikusumos), which form the core of an oligarchy of capitalist business families (e.g. the Liem Sioe Liong family) and the families of fellow bureaucratic capitalist families (e.g. the Habibie family), has forced the Indonesian economy into near bankruptcy and further into the folds of foreign creditors. This is even more ironic when one considers the fact that foreign borrowing by the private sector - for themselves or for public projects subcontracted to conglomerates linked to the Soehartos - accelerated in the second semester of 1996 after the beginning of the financial crisis.

In 2000, Indonesia's total external debt, which includes government and private sector debt, amounted to more than US\$ 144.2 billion, which nearly equals the country's total annual economic production (GDP) of US\$ 160 billion. Of that total external debt, nearly half, or between US\$ 68.2 - 69.2 billion consists of offshore debts of private companies. In addition, domestic companies with acute financial difficulties still owe US\$ 45 billion to the national banking system, which has been taken over by the Indonesian Bank Restructuring Agency (IBRA), a new government body (Winters 2000; Sjahrir 2000; Reutersx, Oct. 13, 2000; Jakarta Post, Oct. 14, 2000).

Applying for new debts, such as the US\$ 4.8 billion which were committed during the last CGI round in Tokyo in October 2000 (Sjahrir 2000), without recovering a substantial portion of

Soeharto's ill gotten wealth, thus seems to send a lesson to the members of the oligarchy, that corruption is tolerated, as long as it is big scale. While this is happening, the two post-Soeharto governments of Habibie and Abdurrahman Wahid, have been unable to remove themselves from the corruption quagmire (see Aditjondro 2001a, 2001b). Soeharto's strategy of creating this nation-wide corrupt oligarchy seems to have worked quite effectively.

The economic impact of this presidential graft, however, is not limited to Indonesia's debt servicing capacity alone, but operates on a broader regional level. As I have argued elsewhere, the recurrent forest fires in Sumatra and Kalimantan can be traced back to the palm oil oligarchy of Soeharto family businesses, which have developed their joint ventures with Singaporean and Malaysian state and top private companies. These links include, for instance, the Camrelin syndicate, which involves the Salim Group and the Malaysian and Singaporean branches of the giant Hong Leong business empire, the Singapore-based Haw Par Brothers and the Singapore state-owned Sembawang Corporation (Backman 1999: 213; Aditjondro 2000g: 9). The Camerlin syndicate is a 20% shareholder of the previously New Zealand-based Brierley Investment Ltd (BIL), which has recently moved its headquarters from Wellington to Singapore. BIL's energy division, AsiaPower, has formed a joint venture with Tommy Soeharto's Humpuss Group to construct geothermal power plants in Java (Williams 1999: 169, 181-182; Backman 1999: 213, 293; BIL 1998).

Considering all these ASEAN-wide linkages, then the financial cost of the 1997/1998 forest fires, which has exceeded US\$ 4 billion (Aditjondro 2000g: 3-4), should be taken into consideration when calculating the economic costs of Soeharto's presidential graft.

Impact on the state:

The 32 years of Soeharto's dictatorship had Golkar as its main civilian political vehicle, and had full control over the military and law enforcement agencies where bribery, extortion, and ideological manipulation were employed to maintain Soeharto's power over the entire state apparatus. This has now completely destroyed the existing democratic and law enforcement institutions. So, when Soeharto was finally pushed out of office, Soeharto's three main pillars of power - Soeharto's business network, the military, and the former ruling party, Golkar - have remained kept intact.

Currently, under the guise of eradicating the corrupt regime of President Abdurrahman Wahid (see Aditjondro 2001a), these three pillars of the old regime are fighting to regain power, riding on the wave of militant Muslims which the Soehartos had developed during the last decade of the dictatorship. This 'return of the New Order' has been facilitated by the fact that the new 1999 laws prohibiting excessive political donations and vote buying, have not been enforced, since they could have eliminated the chance of popular political figures from seizing power peacefully from Habibie, who was considered to be too blatant a Soeharto crony. As a result, the legislature is still packed by former Soeharto cronies, while the former ruling party, Golkar as well as the military and the police, are also still legally represented in the legislature, together with leaders of the pro-Soeharto Muslim vigilante groups (Aditjondro 2001b).

In addition, in reaction to calls by the pro-democracy movement to abolish the military's dual function, military's officers and troops have exploited local ethnic and religious conflicts to consolidate their power and privileges. In Maluku, military forces have colluded with Soeharto loyalists and militant Muslim groups to undermine the liberal, non-sectarian policy of the Wahid and Megawati administration (see Aditjondro 2001d), while in Central Kalimantan, the police simply stood by while hordes of Dayak gangs massacred the Madurese migrants, before the Army commanders in Jakarta sent their crack troops to the scene (see Aditjondro 2001c). Pro-Soeharto generals have immediately tried to bank on this latest violence, as occurred in the case of Maluku, to turn this ethnic conflict into an inter-religious conflict.

The military's reluctance to loose their privileged position on the one hand, and the presence of a large network of vigilante groups, which are allegedly financed by the oligarchy's counterfeit and real money and armed by legal and illegal arms and ammunition (which can mostly be traced back to the Soehartos) on the other, has turned the country into an archipelago of violence, with bombs regularly exploding in public places in Jakarta, especially when high level interrogations and trials were taking place, or were going to take place. A bomb went off, for instance, at the Attorney General's office on Tuesday, July 4, 2000, one hour after Tommy was interrogated in relation to that illegal property swap deal. The bombs involved had been traced back to the Army, a former presidential guard and four employees of Tommy's supermarket company, PT Goro Batara Sakti (Detikworld, July 18, 2000).

The political impact of Soeharto's presidential graft is, unfortunately, not limited to Indonesia. As mentioned earlier, the numerous business links between Soeharto family companies and companies owned or linked to the military junta of Burma, the State Development and Peace Council (SDPC, formerly, the State Law and Order Council, SLORC) has made Indonesia a strong supporter of Burma's entry into ASEAN. Likewise, even the supposedly democratic current head of state, Abdurrahman Wahid, has not put his weight behind the detained Malaysian politician, Anwar Ibrahim, thereby reproducing the time honoured principle of "non interference in domestic affairs" laid down by Soeharto, Mahathir and Lee Kuan Yew.

Impact on the society:

In a nutshell, Soeharto's presidential graft has transformed Indonesia into a society characterised by Syed Hussein Alatas' third stage of corruption. This is the stage where corruption, having destroyed the fabric of society, becomes self-destructive. As Alatas points out so accurately:

"Corruption stimulates further development of greater corruption, and this further degree in turn causes an even greater increase in corruption. When extortion becomes widespread in the civil service, and is used by policemen on the beat, the clerk at the counter, and the nurse at the hospital, it is usually the effect of previous corruption at a higher level. For a country's condition to generate widespread corruption among the civil service, it requires that a preceding state of corruption be present and responsible for that condition (1999: 19).

Usually, according to Alatas, the succession from the first stage of restricted corruption to the third stage of widespread and deep-rooted corruption:

...starts with the group which is least hampered by economic difficulties affecting their means of subsistence. This is the group of high officials and well-to-do business people. When corruption in this circle has gone on for some time, society will then feel the effect. The state revenue declines out of proportion to the volume of trade and taxable sources. The currency declines in value, and prices go up. When this happens, the lower levels of government officials take recourse to corruption in an effort to maintain their livelihood.

But this general economic difficulty is generated by the corruption of the economically higher classes. There are many interesting variables here, which in turn determine whether the corruption of the upper and influential classes will generate the conditions for general corruption (1999: 19-20).

The deepening and increasingly antagonistic cleavages in Indonesian society should also be seen as a direct result of Soeharto's presidential graft, both due to the skewed economic development it brought about, its denial of universal human rights of Indonesia's citizens, the anti-Chinese sentiments which the dictatorship systematically nurtured, as well as the development of vigilantism by the Soeharto family. Hence, we have seen more frequent and more violent anti-Chinese outburst in Java and other places, as well as anti-migrant uprisings in Kalimantan and Eastern Indonesia.

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KKN as a Political Commodity in the Struggle for Power

By Alexander Irwan

INTRODUCTION

Indonesia, in this post-Suharto era, is struggling through a transition from a totalitarian to a more democratic political system, a transition that may take more than a decade to conclude. Similar to the post-Marcos era of Philippine politics, in the Indonesian experience, this transition was set in motion with the shifting of the axis of power. It is as if the political pendulum is swinging out of sync from the executive to the legislative, from the central government in Jakarta to the regional governments across the archipelago (George Aditjondro, 2000; Teten Masduki, 2001); and it appears that the present inequity will not be resolved until after the forthcoming General Election in 2004, or if not then, the General Election of 2009.

To achieve equilibrium, the political elite and the general public must reach a consensus on which system of governance Indonesia will espouse. Does the country favor the presidential system or the parliamentary system? Should the electoral process utilize the district system or the proportional system? And finally, Indonesia's political house, comprising the constitution

and legislature, must be set in order so as not to foster the contradictory interpretations and political deadlock that have in recent years become the rule rather than the exception.

The shift of power from the executive branch to the legislative branch in 2000 and 2001 was marked by the ability of the House of Representatives to unremittingly challenge the authority of President Abdurrahman Wahid. If the President's political opponents successfully unseat him with a Special Session of the Assembly, and Vice-president Megawati assumes power, it is for certain that the Central Axis and Golkar will continue to use the House of Representatives to also undermine her position and authority. In the future this ceaseless discord between the executive and legislative branches of government will only augment the political deadlock that has impeded its bipartisan development, and in the absence of a political consensus, has prevented the resolution of those issues of primary importance, namely: the system of governance, constitution and legislature. The members of the executive and legislative, instead of seeking to resolve the ambiguity of the political, legal and legislative systems have in fact exploited them in the pursuit of personal interests.

The ongoing conflict between the executive and the legislative, and the obliviousness of both to the state of the legal system and the legislature, has rendered Law No. 28/1999, and Decree of the People's Consultative Assembly (TAP MPR) No. XI/MPR/1998, concerning a State Administration that is Clean and Free of Corruption, Collusion and Nepotism (KKN), unenforceable. Consequently, the regime of KKN in the House of Representatives, the executive branch, political parties, and the country's regional governments has not been eradicated. Within the framework of increased regional autonomy in particular, the ill-equipped local legislatures with their inadequate legal systems and lack of an effective social organizational method have rendered local governments unable to exert public control when the balance of power shifts from Jakarta to the regional governments.

The transfer of power from the executive to the legislative has itself generated severe political conflict that is awash with deal making, and as such, a state administration that is free from KKN, does not top the executive, legislative, or judicative agendas. Given the country's present political context, the problem of (eradicating) KKN has in fact become a means to establish political alliances, threaten political opponents, and broker temporary political deals

in the struggle for power. The façade of the detainment and examination of Ginanjar Kartasasmita (a prominent Golkar figure), in April 2001 on charges of corruption was merely part of a concerted political effort to pressure Akbar Tanjung, as the Chairman of Golkar, to curb his efforts to oust the President; the message being that if Ginanjar is not impervious to investigation, then neither is Akbar Tanjung nor his confederates. Similarly, the principal objective in the House of Representatives' beleaguering charges of corruption allegedly committed by the President in the cases of the Yanatera Fund and the Brunei Grant, which formed the basis for the issuance of Memorandums I & II, was in fact not to cleanse the executive branch of corrupt practices, but rather to relieve Abdurrahman Wahid of the presidency.

In addition to being preoccupied with short term interests comprising the struggle for power, the incompetence of the executive and legislative to administer the state in a manner that is free from KKN is also a result of the most pressing concern of all the major political parties, (President Abdurrahman Wahid is from the National Awakening Party or PKB; Vice President Megawati is from the Indonesian Democratic Party of Struggle or PDI-P; the Chairman of the House of Representatives, Akbar Tanjung, is from Golkar; and the Chairman of the People's Consultative Assembly, Amien Rais, is from PAN) that being to finance their efforts to obtain the maximum votes possible in the 2004 General Election. The said political parties are unable to select the creation of a KKN-free state administration as priority because they rely a great deal on external financial assistance, which is frequently to be had only in violation of the prevailing electoral fundraising regulations.

This paper has been divided into three parts. The first part discusses the why and how of the struggle for power between the executive (President) and the legislative (House of Representatives), which until now continues to bitterly persist thwarting the eradication of KKN in Indonesia. This first section will also describe the opportunities for KKN that exist for exploitation by members of the legislative and executive branches. Section one closes with an analysis of the weaknesses of the existing legal and legislative system.

The second section is an in-depth essay of the money-politics of the 1999 General Election. This section has a heightened relevancy on concerns that in the next General Election other major political parties will begin to imitate the practice of money-politics, as perpetuated

by Golkar. Section two discusses the fine points of money-politics: how vote-buying is carried out, how political contributions from individuals and companies are made in violation of existing election laws, and how government initiatives are manipulated to collect votes. This section closes with a further analysis of the legal and legislative system.

The third and final section of this paper contains a summary of realistic recommendations to aid in the struggle to establish a state administration free from corruption, collusion and nepotism.

KKN AS A COMMODITY IN THE STRUGGLE BETWEEN THE EXECUTIVE AND THE LEGISLATIVE

Since no one party emerged a majority winner in the 1999 General Election, major political parties are currently occupied with political deal making and establishing short-term alliances in the pursuit of their separate interests. President Abdurrahman Wahid for example, is from PKB, which in 1999 only pocketed 10.20 percent of the seats in the House of Representatives. It is the aspiration of power (the reasons why President Abdurrahman Wahid wishes to remain in power are not the topic of this paper) with such a legislative minority that has prompted the Wahid administration to skirt the thorny issues of the eradication of KKN and the bringing to justice of known New Order human rights offenders as demanded by the general public, and student and civil society organizations in particular.

Given that the PKB is a minority faction in the House of Representatives, the President is in a precarious political position and one vulnerable to the stratagems of Golkar and the Central Axis, which comprises a number of parties as seen in Figure 1. The combined presence of the Central Axis and Golkar in the House of Representatives totals some 47.8 percent, and were the TNI/POLRI faction to side with this political alliance, then a three-pronged voting majority commanding 55.4 percent of the legislative seats would emerge. If a strategic alliance is formed between the PDI-P (30.8 percent) and the PKB (10.2 percent), the combined seats of the two factions will only total 41 percent - assuming that the entire PDI-P faction supports the President - although in reality, the PDI-P is known to be divided on the issue. In a secret ballot

voting process, the Arifin Panigoro clique (Chairman of the PDI-P, who is known as a Golkar devotee marching to the drum of the PDI-P to save his political and business career), could turn renegade and reject the alliance between the PDI-P and the PKB.

Figure 1:

Acquisition of seats by major parties and the Faction of the Indonesian Armed Forces (TNI)/Police Force of the Republic of Indonesia (POLRI) in the House of Representatives

Party		Acquisition of seats	Percentage of seats
PDI-P		154	30,80%
Golkar		120	24,00%
Central Axis:		119	23,80%
PPP	59	(11,80%)	
PAN	35	(7,00%)	
PBB	13	(2,60%)	
PK	6	(1,20%)	
PNU	3	(0,60%)	
PKU	1	(0,20%)	
PSII	1	(0,20%)	
PDR	1	(0,20%)	
PKB		51	10,20%
TNI/Polri		38	7,60%
Total seats		500	100.00%

Source: Indonesian Election Committee, processed.

This particular alliance holds historic significance as during the Sukarno administration a strategic coalition between the NU and the nationalists was formed. However at present, this bygone affiliation is showing no sign of renewal, as in the 1999 General Election the PKB did not support Megawati's bid for the presidency, and presently the PDI-P is a major proponent in the issuance of the two Memorandums against President Wahid.

Were the alliance between the PKB and the PDI-P to come into being, the full vote of the TNI/POLRI Faction (7.6 percent) would be required in order to counterbalance the voting majority of Golkar and the Central Axis, which is why in recent months the catalytic swing votes of the TNI/POLRI Faction have become an object of intense rivalry between these two hotbeds of power. With respect to the Indonesian Armed Forces (TNI) and the Police Force of the Republic of Indonesia (POLRI), the strategic need for their voting power has rendered the President incapable of prosecuting the numerous cases of alleged corruption and money-politics within the military's commercial network, which has characteristically been the primary source of its non-budgetary funding. Interestingly enough however, being that the military is a state institution, its total income should be included in and derived exclusively from the State Revenue and Expense Budget (APBN) prior to its being further allocated to satisfy any extra-budgetary requirements of the military.

Supposing the TNI/POLRI faction was to join the PDI-P/PKB coalition, the joint votes of the said trident (48.6 percent) would still not command an outright majority, being only a few votes short of supremacy in the House of Representatives. This considered, President Abdurrahman Wahid has continued his courtship of select members of the Golkar Faction, who during the 1999 session of the People's Consultative Assembly contributed to the success of his eleventh-hour bid for the executive office.

The President's indebtedness to those Golkar members who with their astute political jockeying succeeded in catapulting him to power is a primary factor in his reluctance to compel Attorney General Marzuki Darusman (a Golkar votary) to instigate the much anticipated probe into the charges of corruption that have been leveled against many, if not all, former officials of the New Order regime, all of whom incidentally are Golkar party members. With the ongoing Ginanjar Kartasmita investigation, the President is doing little more than throwing a bone to

the students, civil society organizations, and people of Indonesia in an effort to maintain at least a semblance of legitimacy in the public eye.

The incessant demands by student and non-governmental organizations, and the public at large for the sacking of the Attorney General, who has gained a reputation for his disinclination to bringing cases of New Order KKN to justice, have largely gone unheeded by the President as he fears that were he to comply with such a demand, his Golkar party sympathizers in the legislature would align themselves against him at the time the secret ballots are cast in the House of Representatives and the People's Consultative Assembly. As such, Baharuddin Lopa (of the United Development Party - PPP), the proverbial angel of death in the eyes of the New Order, who has proven his commitment to the eradication of KKN, has not been appointed to replace Marzuki Darusman, as demanded by many even from within the ranks of the President's own political party the PKB. Instead of bowing to these demands the President has seen fit to appoint Lopa as Minister of Justice (replacing Yusril Ihza Mahendra of the Crescent Star Party), a position seen as not as contributory to the prosecution of cases of corruption.

In his attempt to maintain power the President has effectively stalled the process against known elements of KKN, which has rendered him powerless in organizing a country that is clean and free from KKN as stipulated by Law No. 28/1999 and the Decree No. XI/MPR/1998. Despite the socio-political objectives the executive may aspire to, the fact remains that the Law and Decree calling for the elimination of KKN have not been implemented as mandated.

However, the executive branch is not the only state institution that has failed in its obligation to organize a country that is clean and free from KKN, as the fulfillment of such an obligation is not the sole responsibility of the President - the legislature is equally accountable. Unfortunately, the distribution of voting power and the hidden agendas of its warring political factions have caused a virtual refusal in the House of Representatives to implement the said Law and Decree as subscribed.

When and if the Central Axis chooses to align itself with Golkar to unseat President Abdurrahman Wahid in the middle of his term, its prospect of becoming a catalyst for the elimination of corruption will by all definition cease to exist, as, for the purpose of maintaining its alliance (and political clout), the Central Axis must see no evil, hear no evil and speak no evil

with regard to Golkar - that political institution which has fathered and is today still dominated by figures of the New Order who continue to perpetuate the corrupt political practices of the Suharto and Habibie administrations.

The motion to establish a Special Committee (Pansus) for Investigation into the Use of the Non-Budgetary Funds of the State Logistic Agency (Bulog) in mid-2000 put forth by 56 members of the House of Representatives, which was aborted almost upon conception is an example of how the Rules of Order of the House of Representatives of the Republic of Indonesia (hereinafter referred to as the Rules of Order) are used to shield the protagonists of KKN from prosecution.

According to procedure the plenary meeting of the House of Representatives that was held on 28 August 2000 did not deviate from the Rules of Order when it voted to deny the establishment of the said Special Committee, this fact is not extraordinary. What is however extraordinary, is that according to the audit of the State Logistic Agency (Bulog) performed by the Development and Finance Controller (BPKP), the unaccounted for disbursements from the non-budgetary fund of the agency in 1999 totaled a staggering IDR 2.86 trillion, or USD 280 million (Kompas: 19 June 2000).

Had the Special Committee been brought into being those persons slated for investigation on charges of embezzlement for their utilization of the State's non-budgetary funds would have included such New Order/Golkar notaries as Bustanil Arifin, Beddu Amang, Rahardi Ramelan, and Jusuf Kalla all former Chairpersons of the State Logistic Agency; and the chairman of the House of Representatives and General Chairman of Golkar Akbar Tandjung, who is suspected of misappropriation of funds during his tenure as Cabinet Secretary in Habibie's cabinet (Kompas, Friday, June 9, 2000).

This refusal on the part of the House of Representatives, which was largely fostered by Golkar, the Central Axis and elements of the PDI-P, to uncover such deviant financial practises can only be attributed to the political and economic interests of the parties involved. The State Logistic Agency (Bulog) has historically been exploited as a kind of cash cow used to finance the interests of those in power, interests such as those of Golkar in the 1999 General Election, an accusation that was corroborated recently by the Minister of Defense Mahfud MD

who alleged that in the 1999 General Election, Golkar received IDR 90 billion (USD 8.8 million) from the State Logistic Agency (Bulog). Further, the Indonesian Corruption Watch (ICW) has firmly asserted that such misappropriation of government funds, as transacted during Golkar's 1999 election campaign, not only constitutes a gross criminal act of corruption, but at the same time a violation of the electoral statute limiting campaign contributions (Kompas Cyber Media: 15 February 2001).

Viewed in this context it becomes increasingly clear why Golkar took such great pains to keep their corrupt profiteering under wraps by mobilizing votes to deny an investigation into the misappropriation of the State Logistic Agency's non-budgetary fund. Presently, the President is proffering the supervision the State Logistic Agency to the PDI-P in an effort to strengthen his alliance with Megawati. But by all accounts it looks as though the cash cow of the State Logistic Agency will in this post-Suharto era continue to be milked for all it's worth, particularly to the end of mobilizing funding for the purpose of winning the 2004 General Election.

The decision of the plenary session of the House of Representatives to refuse to establish a Special Committee to investigate allegations of the misappropriation of Agency funds is valid and is in no way contrary to the Rules of Order, but such a refusal clearly contravenes Law No. 28/1999 and the Decree of the People's Consultative Assembly concerning a State Administration that is Free and Clean from KKN. As stated in the foregoing, the responsibility to organize a government that is free from KKN lies not only with the executive, but also with the legislative. Instead of rejecting them, the House of Representatives should be seeking to put in effect such initiatives to investigate and bring to justice those guilty of corrupt practices. But the distribution of power and the political interests of the House factions have made the application of the relevant laws and decrees nigh impossible.

The ineptitude of the President and his wavering commitment to the eradication of KKN was, it appears, the principal factor in the resignation of the Head of the Joint Team for the Eradication of the Criminal Act of Corruption (TGPTPK), Adi Andoyo, who is one of a rare breed of politician that is strongly opposed to KKN and equally committed to its demise. Government Regulation (PP) No. 19/2000 formed the TGPTPK itself on 5 April 2000; and not a month before Adi Andoyo's resignation (he resigned in March), his team appeared before President Abdurrahman

Wahid and requested that the government issue a regulation (Perpu) to bypass the procedural law that impedes the examination of corruption cases, and to establish a Special Court for Corruption with ad hoc prosecutors and judges. But the President being in a quagmire of political intricacies and under pressure to grant further concessions to Golkar, was disinclined to issue a regulation that would expropriate the authority of the Attorney General's Office and the Police Force with respect to the prosecution of corruption cases.

Had his wish been granted, Adi Andoyo and his TGPTPK would have lashed out against those New Order/Golkar dignitaries suspect of corruption, ruthlessly pursuing them until they were brought to justice; and not only would Golkar party members have been targeted but also those guilty parties closely associated with the President and the PKB. As such, the President's horse trading politics and subsequently his days in power would have been ended.

Hence, what we have seen in the Indonesian political arena in recent months is the complete cycle of corrupt governance. The struggle for power has caused the death of the political will to eradicate KKN in every branch of government, a condition that has caused a prominent anti-corruption figure to throw in the towel less than a year after being assigned to head up a government institute dedicated to the eradication of corruption. It has become painfully clear that the executive and judicative have not implemented nor do they intend to implement Law No. 28/1999 and Decree No. XI/MPR/1998 or to cleanse the Indonesian government of the scourge of corruption, collusion and nepotism.

The said Law and Decree are at present being used by the executive and legislative merely as political assault weapons one against the other. The House of Representative is appropriating the Decree as the legal basis for the issuance of Memorandums I & II to the President, on the conclusion of the Special Committee (Pansus) that the President should bear a degree of responsibility in the embezzlement cases of the State Logistic Agency, the Yanatera Fund and the Brunei Grant.

By the same token the President's party, the PKB, is taking advantage of the same decree to file a claim against the House of Representatives in court on the grounds that it is deemed to have violated Law No. 28/1999 and Decree of the People's Consultative Assembly No. XI/MPR/1998 when it voted to reject the establishment of Special Committee for Investigation into the

Use of Non-Budgetary Funds of the State's Logistic Agency. What is happening here is not an effort to uphold the principles of the said law and Decree but, on the contrary, one to exploit them as political commodities in the pursuit of factional agendas within the framework of the struggle for power.

TRAILS OF CORRUPTION IN THE LEGISLATURE

In addition to possessing the power to quell any anti-corruption initiatives put forth at the parliamentary level, the members of the House of Representatives without regard to party affiliations, have occasion to engage in money politics and other criminal acts of bribery, vote buying, embezzlement and corruption. This is made possible and implicitly condoned, as in its essence the House of Representatives as an institution is a place to negotiate interests. Its increasingly crucial role in national governance in this epoch of Reformasi (reform), although a welcome change to its past function of a rubber-stamp in the hands of the New Order, carries with it a grave responsibility as the attitude and position of the House of Representatives in determining public policy becomes increasingly recognized and scrutinized. Today it seems that the more vocal a member of the House of Representatives is in questioning government policies within the framework of performing their duty to supervise the operation of government, the more the opportunities to engage in the game of money politics arise. In fact on occasion, the House of Representatives has in recent years completely abandoned its supervisory function to instead meddle in the macro-economic management of the country, such as when it participated in determining the sale of the assets of IBRA; the price increases of refined fuel oil, electric tariffs, and public transportation costs; and most absurdly, determining the paper and supplier to be used to print currency. The fading line between the supervisory duties which are the right of the House of Representatives and the executive functions in which the house has been interfering has disrupted the ministerial decision-making process and evoked protest in many circles.

There are at the very least three known political forums within the House of Representatives that are especially conducive to the practice of money politics. The first is the forum for the discussion of the law, as pursuant to the first amendment to the 1945 Constitution, and the authority to draft laws now lies with the House of Representatives more than ever before.

Officially, the manual of provisions of the preparation of Bills of Law still refers to Presidential Decree No. 188/1998 concerning the Procedures in Preparing Bills of Law, issued by President Habibie on 29 October 1998. This particular Decree is the complementary version of a similar stipulation, namely Presidential Instruction No. 15/1970 concerning Procedures in Preparing Bills of Law and the Draft of Government Regulations of the Republic of Indonesia, as issued by President Soeharto.

The second forum for the propagation of money politics is known as the Hearing of Opinion Session (RDP), a forum in which members of the House of Representatives collaborate with their government colleagues to conduct routine studies of each of the government's policies. Within the framework of carrying out this duty, the House of Representatives has established nine such commissions each in their own field of study, namely:

Commission I	: Defense Security and Foreign Affairs
Commission II	: Law and Domestic Affairs
Commission III	: Food and Agriculture
Commission IV	: Transportation and Infrastructure
Commission V	: Industry and Trade
Commission VI	: Religion and Human Resources
Commission VII	: Welfare and Population Affairs
Commission VIII	: Mining and Energy
Commission IX	: Finance and Economic Planning

Rumors that the bribery of government officials stems from these opinion hearings frequently surface. Commissions VIII and IX - which between themselves supervise finance, economic planning, mining and energy including the banking and oil sectors - are deemed to be particularly lucrative (Gatra: 17 March 2001). The transportation and infrastructure commission (Commission IV) as well as the commission for industry and trade (Commission V) are also rife with bribery;

whereas other commissions, such as Commission VI (Religion and Human Resources) and Commission VII (Population Affairs and Welfare) are seen as less profitable and as such less desirable.

The third avenue for corruption in government lies in the appointment of public officials. Since the ouster of President Suharto, the role of the House of Representatives in this area has been significantly augmented. The selection of Chairman and Vice Chairman of the Supreme Court, pursuant to the provisions of Law No. 14 /1985 concerning the Supreme Court is one instance where the candidates are nominated by the House of Representatives to be subsequently selected and appointed by the president. The same can be said of the selection process for the members of the Board of Governors of the Indonesian Central Bank. In addition to these, the approval of the House of Representatives must also be obtained in the appointment and commissioning of Ambassadors.

Bribery Problems in the Discussions on Law

Money politics is an integral part of numerous decisions handed down by the House of Representatives in relation to the authority of the institution to draft Laws. The March 2001 edition of Gatra Magazine reported that the authorization process for regions to become provinces or regencies as stipulated by Law has at times provided commission members with a unique opportunity to accumulate personal wealth according to their voting persuasion. Rumors of bribery surfaced for instance when the House was debating the possibility of making Gorontalo a separate province from South Sulawesi. In their bid to turn Gorontalo into a province, it was reported that the committee for the establishment of new provinces prepared a slush fund totaling IDR 5 billion (USD 4.9 million), an allegation that the parties to the debate vehemently denied.

There are two phases within the procedure to prepare Bills of Law as stipulated by Presidential Decree No. 188/1998 that are susceptible to money politics. The first is the executive phase during which a Bill of Law is formulated. In this phase the initiative for a Bill of Law proposal is filed, which provides a chance for parties wishing to influence the content of the Bill to secure their interests with payoffs.

In the second phase the draft Bill is brought before the House of Representatives for deliberation and approval, after being previously approved in principle by the president. At

this phase the House of Representatives can propose amendments or modifications to the Bill of Law, or simply elect to accept or reject the said Bill outright.

During the Habibie administration, while a discussion of a Bill of Law concerning the Central Bank was underway, a local tabloid printed an article avering that Bank Indonesia had set up a fund totaling IDR 60 billion to ensure the Bill's approval in the House of Representatives. Of course, this claim was refuted by Bank Indonesia governor, Syahril Sabirin who strongly denied the existence of the alleged slush fund, even holding a special press conference to this end. Appearing alongside him at the press conference were several house members from Commission IX, the supervisory commission in financial and economic matters (Suara Pembaruan: 5 April 1999).

Unconfirmed reports of bribery were also circulated during the discussion of the Bill of Law on Oil and Gas in July 1999. The funds allocated as bribe money were rumored to total IDR 13 billion. This figure is smaller than the IDR 32 billion previously reported by the Suara Pembaruan (Suara Pembaruan: 6 April 1999). According to the reports printed in the 20 July edition of the Suara Pembaruan, the fund was issued by Pertamina to convince the House of Representatives to preserve the existence of State Owned Enterprises in the Oil and Gas sector (BUMN Migas).

That news article, entitled Rumors of Bribery Mark the Discussion on the Bill of Law Concerning Oil and Gas, was countered by a rebuttal from the Special Committee of the House of Representatives through one of its members, Jusril Jusan. A rebuttal was also put forth by an off-the-record source within Pertamina quoted by the Suara Pembaruan. This same source alleged that advances had already been made in regard to the bribery fund by members of the House of Representatives who recommended that the money be utilized to prevent the House from uncovering problems that may impose further burdens on Pertamina. No denial of these allegations was made by the Chairman of the Special Committee for the Bill of Law on Oil and Gas, Erie Soekardja of Golkar.

Bribery in the “Hearing of Opinions” Sessions

The Hearing of Opinion Sessions (RDP) is the forum through which the House of Representatives discusses government policies. Bribery aimed at avoiding disclosure in any given session may be initiated by either parties to the discussion - the members of the House of Representatives or the State Owned Enterprises (BUMN) with a particular interest in the matter. The March 2001 edition of *Gatra* published a report concerning a case of blackmail involving PT. Semen Gresik and valued at IDR 250 million that several members of the House of Representatives were rumored to be party to. In the same report, House member Effendy Choirie was quoted as saying that a number of State Owned Enterprises (BUMN) were victims of the blackmail practiced by members of the House of Representatives. Nevertheless, like most rumors this allegation of bribery and blackmail was denied by the involved parties and no further investigation made.

In December 1999, the then Coordinating Minister of Economy, Finance and Industry, Kwik Kian Gie, without naming names speculated that several members of the House of Representatives were being maintained by problematic conglomerates to secure their interests. At the time of his statement the House was midway through discussing the recapitalization of BNI, and debating the debt restructuring of Texmaco, owned by conglomerate mogul Marimutu Sinivasan. Kwik’s accusation was further corroborated by Ade Komaruddin of Golkar who suspected 6 House members to be involved in bribery in this case. If analyzed the statements of these particular members appear to be rather in defense of Texmaco (*Media Indonesia*: 11 December 1999).

The visits frequently conducted by members of the House of Representatives as follow up to the Opinion Sessions are also prone to bribery. In mid-December 1999, one particular bribery scandal emerged following the visits of a number of members of Commission IX led by the Chief of the Commission, Dr. Sukowaluyo Mintorahardjo, to Bank Mandiri in Jakarta. The legislators involved were rumored to have each received IDR 15 million in bribes transferred directly to their accounts in Bank Mandiri, this was in addition to the IDR 5 million each received in cash during the visit, or a total of IDR 20 million. Again, no investigation whatsoever has been carried out in this case and both Dr. Sukowaluyo

and Robby Djohan (Director of Bank Mandiri), have denied the allegations of bribery (Xpose: 26 December 1999-1 January 2000).

Accusations of bribery were also leveled against the House of Representatives in relation to PT. Freeport Indonesia. According to numerous media reports, PT. Freeport, which holds massive mining concessions in Irian Jaya, bribed the members of the Mining and Energy Commission an exorbitant IDR 900 million each in order to discourage a House investigation into the company. This rumor surfaced after the planned 20 March 2001 Opinion Session between Freeport and Commission VIII was cancelled. Following the cancelation, the House of Representatives scheduled a visit to Freeport Indonesia in Irian Jaya. Again, all claims of bribery and corruption were emphatically denied by both PT. Freeport and the Commission (Kompas: 21 March 2000).

Rumors of Bribery in the Selection of Public Officials

The selection of public officials in Indonesia also remains heavily laced with the practise of bribery known politically as candidate acceptance funding. Evidence of such funding can be found at such low strata of government as the election for village chief as it can at the highest level, namely the presidential election. In the October 1999 General Session of the People's Consultative Assembly, rumors of bribery to secure a winning place for a strong candidate were rampant. But like the majority of such rumors, they remained only that, as no attempt to investigate or prosecute such allegations was ever made. Coordinator of the Indonesian Corruption Watch (ICW), Teten Masduki, alluded to once receiving a report from the public sector pertaining to the existence of money politics in the presidential election during the General Session of October 1999 (Kompas: 2 October 1999). Gatra (17 March 2001) also published the testimony of representative and National Mandate Party (PAN) member, Alvin Lie, that he was once contacted by two people who offered him IDR 1.5 billion to support Habibie's presidential nomination in the General Session of October 1999.

The admission of one former member of the House of Representatives was published by Kompas explaining that bribes are no longer distributed to their recipients by means of electronic transfer but are instead dealt out in cash. Cash bribes are preferred by House members as they do not leave in their wake a papertrail that can lead to their eventual capture by the law as

the acceptance of bribes as such constitute a criminal act of corruption. The General Session of the People's Consultative Assembly comprises four phases conducive to bribery and other forms of money politics. The first determines the agenda of the General Session. In the second phase, a chairman of the People's Consultative Assembly and House of Representatives is selected. Phase three consists of the President's accountability report. The fourth and final phase is the presidential election. It is generally understood that the value of bribes increases from one phase to the next, the governing principle being double or nothing - that is to say that if the value of the bribe is not doubled, no political support will be given at the time the vote is taken.

Allegations of money politics also surrounded the March 2000 selection of the Deputy Governor of Bank of Indonesia. According to law, the selection of the Deputy Governor is made by the House of Representatives based on the list of candidates submitted by the Governor of the Central Bank. In March 2000, three candidates were vying for the position, they were Burhanuddin Abdullah, Cyrillus Harinowo, and Aulia Pohan. Aulia Pohan emerged triumphant after the full support of the Golkar party was thrown behind his bid for Deputy Governor. His selection was not without rumors of money politics being used to influence the attitude and choice of the House of Representatives. These claims were reported by the Kompas on 27 March 2000, and soon after corroborated by House of Representatives and Commission IX member Zulfan Lindan. However, the legislature never looked any further into the possibility of such corruption.

Similar rumors also surfaced when the House of Representatives was debating the selection of the Chairman of the Supreme Court of Justice. As reported by the news portal Tempointeraktif, it was widely believed that The Habibie Center, an institution owned by former President Habibie, had disbursed funds in the amount of IDR 15 billion to support the election of Muladi, the chairman of The Habibie Center. This rumor was denied by a member of Commission II, Panda Nababan from the PDI-P. The President, backed by the Vice President rejected the selection of Muladi as Chairman of the Supreme Court of Justice, and demanded that the House of Representatives hold a renomination. The House of Representatives itself is of the opinion that the Executive does not bear the right to reject the appointment of a candidate, and the ensuing controversy that resulted from the ambiguity of the governing regulation, which can be interpreted any of many ways, is still raging.

Bribery and other corrupt practices in the selection of public officials are not exclusive to the upper strata of national governance, but have filtered down to the regional level in the Gubernatorial Elections, and are rampant even in elections for Regent or Mayor. From a law enforcement perspective, the prosecution of regional cases of bribery and corruption is hardly significant as very few cases are processed. The ICW investigation as reported by Kompas (30 May 2000), concludes that the election process for the positions of Governor and Vice Governor in Central Kalimantan for the 2000-2005 term of office was marred by money politics and bribery. An estimated 29 out of the 45 member Regional Legislative Council received bribes of between IDR 100 million and IDR 150 million. Additional bribes from other candidates ranging from IDR 25 million to IDR 50 million were also allegedly distributed. This case is currently being processed by the High Prosecutor's Office of Central Kalimantan.

Legal steps have also been taken in relation to accounts of bribery tied in with the Mayoral election in Medan. In this case, the District Prosecutor's Office has named the Mayor Drs. Abdillah as a suspect along with four members of the regional PDI-P faction, who are accused of vote buying and bribery (Kompas: 18 April 2001). The four PDI-P members - Tonnes Gultom, JD Haloho, Doni Aarsal Gultom and Suharto Sambir - each admitted to having accepted a bulk sum of IDR 25 million from Abdillah as upfront payment for the mayoral election. Their written confessions were taken and sealed before the cadre and management of the Regional Board of Leadership for the Indonesian Democratic Party of Struggle (DPD PDI-P) for the North Sumatera region. Abdillah won the mayoral election with 77 percent of the vote of the Regional Legislative Council for Medan and was inaugurated on 17 April 2000 despite his being declared a suspect. (Kompas: 19 April 2000)

In addition to the official cases of electoral fraud, which are few and far between, numerous instances of bribery are rumored to occur during the time of the delivery of accountability reports to the Regional Legislative Councils by state officials. Such rumors connected to the Accountability Report of the Governor for the Special Province of Jakarta, Sutiyoso, can be used to illustrate this. Sutiyoso's Accountability Report for 2000 was accepted by the Regional Legislative Council for the Special Province of Jakarta, despite several dubious accounts (Kompas: 6 June 2000). For example, it was reported that in the year 2000, each member of the Regional Legislative Council for the Special Province of Jakarta received vehicle allowances of IDR 75

million. Then in early 2001, 55 of the 88 members of the Regional Legislative Council received gifts of vehicles namely, Hyundai Accent GLS sedans, while the Council Chairman, Edy Waluyo received a Toyota Land Cruiser valued at IDR 725 million, and the vice chairman and other faction and commission leaders received Toyota Coronas (Kompas: 23 February 2001).

The allocation and dispersal of the above vehicle spending occurred on the eve of the delivery of Sutiyoso's April 2001 Accountability Report to the Regional Legislative Council for the Special Province of Jakarta. The allowances and gifts concerned were funded by the Regional Revenue and Expense Budget (APBD), and therefore constituted formal disbursements of the Regional Government of Jakarta. Whether or not these disbursements were intended as bribes and the whether or not they caused losses to the state must be proven in court. The cruel irony of the matter is that while in the throes of its worst economic crisis in history as the country suffers under a mountain of domestic and foreign debt, swelling deficits in the National Revenue and Expense Budget, and a lack of funding to subsidize impoverished regions within the framework of regional autonomy, the Jakarta Legislative Council, apparently oblivious to the fact that Indonesia's economic and socio-political structure is crumbling around its ears, appears content to squander the already overtaxed resources of the government to purchase vehicles for the personal use of its members.

TRAILS OF CORRUPTION IN THE EXECUTIVE

Law No. 28/1999 and MPR Decree No. XI/MPR/1998 also applies to the President, and therefore, as mentioned above, the House of Representatives has based the issuance of its two Memorandums to the President on the above Decree. In addition to political sanction, the President can also be subpoenaed in the event that strong evidence is brought to light proving that he has failed to implement the said Law and Decree. There recently have been several instances in which the President has let it be known, albeit subtly, that he is unwilling to fully implement the substance of the aforementioned laws due to his personal economic and political agenda. His reluctance to replace Attorney General Marzuki Darusman cannot be used, as a legal basis to prosecute the President, as his actions in this case - whatever his motives may be - are justifiable under the Presidential prerogative rights. However, the President's intervention

in and attempt to delay the investigation of the CEOs of three conglomerates suspected of criminal corruption in relation to Bank Indonesia's Liquidity Support (BLBI), which was distributed by the government in 1998, namely Marimutu Sinivasan (Texmaco), Syamsul Nursalim (Gajah Tunggal), and Prajogo Pangestu (Barito Pacific), can only be seen as a violation of the Law. Rumor has it that the delay of the investigation is related to contributions made by the conglomerates to associates of the President and the PKB.

One other case with links to the executive is that of a contract entered into between the State Electricity Company (PLN) and several foreign companies. If the allegation that the President intervened to ensure the selection of ABB (a Swiss-Swedish energy company) as contractor to construct electrical transmission cables, a project valued at USD 100 million, has any basis in fact then the President has violated Law No. 28/1999 and MPR Decree No. XI/MPR/1998 and is guilty of engaging in corruption. According to the explanation given by George Aditjondro (2000), ABB benefited from the services of Harold Jensen (ABB representative to the United States) and Daniel Tay, who both had in the past assisted the President with his eye treatment, and who both successfully lobbied the President to award the PLN contract to ABB.

George Aditjondro has meticulously documented other accounts of corruption perpetrated by President Abdurrahman Wahid. One recurring theme in each of the numerous cases is how the extended family and close friends of the President succeed in obtaining business or financially profitable political facilities. For example, the President once placed his younger brother, Hasyim Wahid, into the structure of IBRA as a conglomerate debt collector. Though the younger Wahid did not keep his position for long, it was a particularly lucrative placement and one susceptible to bribes from those conglomerates in possession of extraordinary bad debts.

In addition to the above, and still according to George Aditjondro, Hasyim Wahid also received Presidential support for his business of importing crude oil from Iraq, Iran and Kuwait on behalf of Pertamina, while the President's other brother Salahuddin Wahid, was reported to have obtained a contract from state owned company PT. Bahana Pakarya Industri Strategis (BPIS), which controls ten strategic industries, to construct the West Java Industrial Park - such BPIS contracts used to be the playground of the Habibie family. The appointment of Rozy

Munir, of the NU and the PKB, to the post of Minister for the Cultivation of State Owned Enterprises, replacing Laksamana Sukardi from the PDI-P, has also raised suspicions that the President is facilitating Rozy Munir's collection of funds to support the PKB's 2004 election campaign.

If the cracks of corruption can be clearly identified in the operating mechanism of the House of Representatives (as in the discussion of the Bills of Law, the Hearing of Opinion Sessions and the appointment of public officials) they are obscured in the executive as they are linked to the prerogative rights of the president in appointing high state officials. Hence such presidential rights must be ascertained in order to clearly define the extent to which the executive can award contracts for state projects, or meddle in the affairs of the Attorney General's Office.

Another political functionary that is difficult to snare by way of the law is the political middleman, a financially rewarding function traditionally assumed by those intimate with the President. According to various trusted sources, the President decided to delay the investigation into Texmaco CEO, Marimutu Sinivasan, after the two met at a meeting arranged by one such middleman. The same holds true for the encounter between the President and Tommy Suharto. It is said that both Sinivasan and Tommy paid service money to the political broker (s) involved. The question is, do these power brokers and middlemen transgress the law if the purpose of their jockeying is to violate Law No. 28/1999 and MPR Decree No. XI/MPR/1998? Are such middlemen accessories to crime?

Flawed Beacons of Justice

As mentioned in the foregoing, Law No. 28/1999 and MPR Decree No. XI/MPR/1998 have not been implemented in a consistent manner due to the ongoing rivalry between the legislative and the executive. However, the Law and Decree themselves possess some fatal weaknesses to their composition. Article 5 of Law No. 28/1999, for example, obligates members of the legislative, executive, and judicative to publicly announce their wealth. This stipulation is intended to deter state officials from accepting bribes due to the required transparency of assets.

Unfortunately, this stipulation contains serious flaws. As the Chairman for the Commission for the Audit on the Wealth of State Officials (KPKPN) Yusuf Syakir stated, no legal

sanctions are imposed against state officials who refuse to complete the list of assets form supplied them by the KPKPN. The sanctions imposed are only moral ones, in that the names of those who are unwilling to comply are announced to the public. And of course, no legal measures are stipulated against those who falsify information pertaining to their wealth. This being the case, and in order to give meaningful purpose to this law, firm penalties must be put in place (high levies and the seizure of assets) and meted out against those officials who give false testimony or fail to disclose their assets as required. The Attorney General's Office should also be shielded from political and other pressures to conceal such violations.

With respect to the House of Representatives in particular, there exists no effective legal mechanism to prevent the practice of money politics in the parliament. For such a purpose, the House of Representatives recently established a Special Committee to formulate a Code of Ethics for the House of Representatives. The temporary draft of the code of ethics contains among other things provisions on the receipt of gifts from other parties, and like Law No. 28/1999, some regulations that possess clear sanctions against thier violators and others that do not.

What is clearly prohibited, for example, is the acceptance of gifts by members of the House of Representatives whose value exceed IDR 500.000, an amount that when compared with those amounts cited in recent allegations of bribery seems a paltry trifle. Clear sanctions for the violation of this prohibition are also subscribed, which can take the form of a reprimand through to the outright dismissal from the House of Representatives of the offending member. However, no clear sanctions are stipulated with respect to House members also holding commerical and corporate positions outside the realm of their political duties, a prohibition that it is anticipated will be met with strong opposition from the House of Representatives as most if not all of its members each consult or sit on the boards of directors or commissioners of several companies.

The process of sanction itself is regulated by Article 23 of the draft of the Code of Ethics for the House of Representatives concerning report and research. The first paragraph stipulates that reports on the suspicion of violation of the Code of Ethics shall be submitted in writing to the Chairman of the House of Representatives. Paragraph two states that reports void of identities, can be disregarded by the Chairman of the House.

The proceeding paragraphs delineate the ensuing process: After a report is received by the Chairman of the House of Representatives it is then conveyed to the Consultative Body (Bamus) for continuation. In arriving at a decision, Bamus must first recommend to the plenary session the establishment of an Honorary Council, which will then research the report and either choose to accept or reject it. The Council will then convey its recommendations to the Chairman of the House of Representatives to render the sanction (Suara Pembaruan: 29 November 2000). The main drawback to this mechanism, is that such reports can be dismissed by vote, as happened in the case of the proposal to establish a special committee to investigate the disbursement of the non-budgetary funds of the State Logistic Agency in 2000. To circumvent such obstacles to justice it would be better to treat the report not as a state secret, but instead to publicize it from the start.

Since the House of Representatives is not yet capable of law enforcement, the power of the court of public opinion in cases of corruption in the legislature should be maximized and not suppressed. Even if reports of corruption cease in the formal procedural sense, the public should be allowed the opportunity to assess whether or not the House of Representatives has sought to implement Law No. 28/1999 and MPR Decree No. XI/MPR/1998 to the best of its ability. If the legislature is found wanting in this regard, the Ethics of the House may be more effectively implemented by way of public scrutiny.

The draft Code of Ethics for the House of Representatives also appears unenforceable on the occasion that the House of Representatives as an institution chooses to impede the effort to eliminate governmental corruption, as it did when it refused to investigate the charges of corruption, bribery and embezzlement surrounding the non-budgetary funds of the State Logistic Agency, or when it lent its support to the Governor in issuing dubious vehicle facilities to Regional Legislative Council members for two years consecutively. In cases such as these, a third party should be permitted to undertake the prosecution of such corrupt practices through the courts.

As they apply to the Regional Legislative Council of the Special Province of Jakarta, Law No. 28/1999 and MPR Decree No. XI/MPR/1998 permit the public and non-government organizations to file class action suits against the Legislative Council for Jakarta. Until all branches of the Indonesian government are free of the political constraints that prevent the eradication of

KKN, third parties beyond the circle of each must be permitted to utilize the existing legal process to prosecute the perpetrators of KKN by way of law enforcement, despite the likelihood that their efforts will meet with complications in the hands of the police and the Attorney General's Office.

In order to regulate the executive, the House of Representatives is currently discussing the draft of a law concerning the Presidential Institution that hopefully will serve to prevent corruption in the executive circle. Article 43 of the draft law firmly states that, the President and or Vice President are strictly prohibited from :

- a. directly or indirectly engaging in business activities;
- b. directly or indirectly providing facilities and/or business opportunities to their family, political party members, and/or any other parties;
- c. actively participating in the management of social bodies either directly or indirectly;
- d. providing facilities and/or opportunities to their family, political party members, and/or any other parties who are actively participating in social bodies either directly or indirectly;
- e. accepting money, goods, and/or services from other parties, that bear the likeness of a reward for a government decision favorable to the benefactor that has been issued; or of an incentive to influence the rendering of a government decision favorable to the benefactor; and/or
- f. directly or indirectly receiving gifts in any form whatsoever valued in excess of IDR 25.000.000 (twenty five million rupiah) from other parties and/or certain foreign parties."

The presence of firm provisions such as those found in the above Article 43 will impose a system of checks and balances on the executive. Clarity of regulation will prevent controversies such as that which erupted when the President accepted a personal grant of USD 2 million from the Sultan of Brunei. If the Law on the Presidential Institution is approved by the House of Representatives and implemented, the members of the executive will clearly be prohibited from accepting private, gifts, grants and donations such as the one described above.

In addition to the threat of censure from the House of Representatives, Article 46 of the draft Law on the Presidential Institution also opens up the possibility for civil claims, criminal suits as regulated under the legislature, and state administrative claims to be filed against the President and Vice President. Pursuant to Article 46, the President and Vice President are only immune to the said claims and suits with respect to the statements and/or opinions they may convey orally or in written form in official open or closed sessions of the cabinet, the People's Consultative Assembly and/or the House of Representatives.

The legalization of the Code of Ethics of the House of Representatives and the Law on the Presidential Institution will prove to be of great assistance to the enforcement of Law No. 28/1999 and MPR Decree No. XI/MPR/1998, as in the absence of a clear mechanism of claim and prosecution, the cancer of KKN in the executive, legislative, and judicative will continue to spread and corrupt the whole institution of government.

MONEY POLITICS IN THE GENERAL ELECTION

Indonesia's present political constellation has encountered difficulties in taking action against KKN cases involving the legislative, judicative, executive and private sector. This is because the proceeding General Election process in 1999 was also rife with corruption. The electoral process of the New Order was equally if not more susceptible to bribery, vote buying and other forms of electoral fraud, but that is not the topic of this paper. In the 1999 General Election, cases of bribery and violations of the electoral contribution regulations were so numerous; that they proved irrepressible by way of the existing legal system.

Despite strong indication that Golkar committed the greater number of cases of electoral violations, as was disclosed by the Indonesian Network of General Election Monitoring Societies (JAMPPI) (A. Malik Haramain and MF. Nurhuda: 2000 page 90), the other major parties were not without instances of similar practices. The inability of Law No. 3/1999 to impose sanctions on and penalize offenders is directly responsible for the ensuing melee of bribery and electoral fraud that marred the General Election of 1999.

Money politics as practiced in the 1999 General Election can be examined in three phases, which will be discussed each in their own turn in the following pages. The first is the presen-

tation of bribes to the voters to persuade them to vote for a certain party. Next, funds are mobilized from third parties to finance the campaign. The third phase constitutes the exploitation of government programs within the framework of manipulating the number of votes obtained.

The Presentation Of Bribes To Voters

In the 1999 General Election many political parties were guilty of bribing voters to gain support for certain political parties. However, there are indications that Golkar was the most active in this regard. Of a total of 383 such violations as reported by JAMPPI (2000, page 90), Golkar was involved in 250 cases (65.4 percent), while the People's Sovereign Party in 50 (13.1 percent). Other political parties were responsible for the remaining cases.

There exist several reasons why Golkar was the most active violator. First and foremost, Golkar has at its disposal large quantities of funds collected under the New Order and is therefore, able to finance such ventures. Second, during the New Order regime other political parties such as the PDI-P, PPP, PKB and PAN did not maintain as complex and effective a fund raising network as Golkar. The third and final reason is that in the wake of the dramatic collapse of the New Order regime, Golkar was very worried that it would be unable to win many if any votes in the General Election of 1999 and as such felt compelled to compensate by spending a great deal to tip the scales in its favor.

Under the current administration Golkar is not the only party able to collect funds for the 2004 electoral campaign, as similar opportunities exist for the all the other major political parties and even for smaller parties such as the Justice Party (PK) and the Crescent Star Party (PBB). In the upcoming General Election, it is safe to assume that nearly all contending political parties will engage in the various forms of money politics like those employed by Golkar in 1999.

In the 1999 General Election, Golkar bought votes using three primary channels: 1) regional political figures; 2) bureaucracy; and 3) direct voter bribery. Let us now examine the vote buying process via channel one, or regional political figures. One such example of this process was the role played by A.A. Baramuli, a Golkar advisor who is also a political figure from South Sulawesi. During the electoral campaign of 1999, Baramuli traveled through various regions of Sulawesi almost exclusively for the purpose of distributing money. In Gowa, South Sulawesi,

Baramuli distributed IDR 206 million to the caretakers of mosques, Golkar representatives at the village and district levels, and awarded scholarships to local high school and university students. He also presented each village chief with a gift of IDR 100.000 (KOMPAS: 26 February 1999).

Baramuli's tour of North Sulawesi was met with vigorous protests from the leaders of 21 political parties, all of whom on 11 June 1999 requested that the Vice Chairman of the Advisory Council for Golkar and Chairman of the Supreme Advisory Council, A.A. Baramuli, be brought to court on charges of vote buying and corruption.

The 21 enraged political parties were KRISNA, PPP, PKP, PAN, PKB, PK, PUDI, PDI-P, PILAR, PARI, KAMI, PBN, PNI Supeni, PADI, MKGR, MURBA, IPKI, PILAR, PDKB, PRD, REPUBLIK, and PSP. They were of the mind that the pre-campaign cadre meetings held by Baramuli in North Sulawesi which included by the presentation of billions of Rupiah in contributions for the construction of places of worship in the name of the Golkar Party constituted little more than bribery and money politics. In addition, the Chairman of the Justice and Unification Party, Frits Sumampouw, also questioned Baramuli's IDR 100.000 contribution to all village the chiefs in the Regency of Minahasa, an allegation corroborated by the village chief of Village Pasaman Baru who admitted that all of his colleagues were given gifts of IDR 100.000 by Golkar (Kompas: 12 June 1999).

Golkar also used bureaucratic channels for the purpose of vote buying. In South Kalimantan, two days before the ballot, the Head of the Regional Leading Board for Golkar in Tabalong, Murhan Effendi and several other caretakers visited 23 village chiefs in the District of Tanta. In a meeting that took place in the home of Arbain, a Tanta villager, negotiations between the caretakers of the Golkar Party and the 23 Village Chiefs were initiated and concluded. The Golkar caretakers stated their willingness to present each chief with IDR 500.000 provided that they mobilize their constituents to vote for Golkar. The village chiefs agreed and Golkar won by a landslide in their districts, however the other 23 political parties soon became suspicious. After an investigation was conducted, two local residents H. Arbain and Jarkasi admitted to having received money from their village chiefs to vote in favor of Golkar. Both witnesses signed written statements before the leaders of the parties disclosing

that all the village chiefs of the districts had received money from Golkar and that several of them had distributed that money among their voting residents (Kompas: 12 June 1999).

Still in the bureaucratic channel, active and retired civil servants across all levels as of 1 April 1999 received a new facility called the Improvement of Income Facility (TPP) amounting to IDR 155.250 per person. Was the number of recipients to reach a total of 7.5 million people, the government would have to disburse IDR 1.16 billion per month solely for this facility. This additional facility issued by the government has come under suspicion for its possible role in the 1999 General Election. According to a Kompas source in the Directorate General of Budgeting with the Department of Finance, there is currently a rumor circulating that an individual's receipt of the facility is largely contingent on the direction of his/her vote.

From where the financing for this facility will be derived is still a serious problem as it has not been included in the State Revenue and Expenditure Budget for fiscal year 1999/2000, and Hadiyanto, Chief of the Bureau of Legal and Public Relations with the Department of Finance has been unreachable to confirm or deny the existence of such a facility. An Elementary School teacher from Bandung has testified that the additional funds were received, but did not know if the facility was a permanent or only a temporary one.

In Palangkaraya, Central Kalimantan, it was reported that no official instructions have been issued to civil servants regarding their vote in the General Election. However, such guidance is given indirectly. An employee of the Regional Office of the Department of Forestry and Plantation for Central Kalimantan was quoted as saying, "We received no explicit instructions from our superior, but the improvement in our livelihood owing to the sudden and unexpected wage increase as of last April encouraged us to vote a certain way" (Kompas: 31 May 1999).

Golkar has also employed the direct vote buying approach. In Wonogiri, five Golkar representatives carried out what was dubbed the Morning Attack of money politics. DPD functionary for the Golkar Party in Wonogiri - SP, assisted by his children and several local units of Golkar were caught red-handed while enroute to distribute money to the people of the Ngancar Village on 7 June in the wee hours of the morning. When the group of Golkar functionaries was caught, local residents searched the parked station wagon owned by SP and discovered IDR 980.000 to be distributed, a collection of Golkar Party paraphernalia and an air gun. It was later reported that

SP planned to distribute between IDR 5.000 and 50.000 to each resident. Sagimin, a resident of the Ngancar Village admitted that he received money from SP several times in amounts of between IDR 60.000 and IDR 100.000 (Kompas: 7 June 1999).

Mobilization of General Election Funds From Third Parties

The second form of money politics employed by political parties is the mobilization of funds from high net worth individuals, institutions, and companies. In the 1999 General Election several political parties violated the maximum contribution limits, i.e. IDR 15 million for personal contributions and IDR 150 million for corporate contributions, as stipulated under Law No. 3/1999.

According to IFES (1999), the initial audit results delivered to the General Election Committee (KPU) show that Golkar received two anonymous personal contributions valued at IDR 50 million and IDR 25 million respectively. Golkar also received a corporate contribution totaling nearly IDR 200 million. According to Golkar, this particular contribution was collected from the various subsidiaries of the company in question and the contributions from each subsidiary were within the IDR 150 million contribution limit as stipulated by law.

Still according to IFES, the report from the PDI-P to the KPU revealed that out of 304 anonymous donors, three of them violated the legal contribution limit - one by as much as IDR 250 million. The PKB reported two individual and four corporate contributions that exceeded the legal limit. PAN reported the receipt of one such individual contribution. The PBN reported loans and contributions from five individuals in excess of the legal limit.

The second audit report revealed that the PDI-P had in fact received five individual contributions beyond the permissible boundaries, while the PPP received several individual contributions totaling IDR 14 billion, all of which exceeded the IDR 15 million limit set for individual contributions. It is clear that during the 1999 General Election individuals and companies no longer concentrated their contributions exclusively on Golkar, but also on other political parties deemed significant. This tendency is likely to continue throughout the General Election of 2004.

Mobilization of Funds From Government Bodies and Programs

Under the New Order regime there existed a strong tendency on the part of the ruling party to utilize its political power to milk the cash cow of State Owned Enterprises (BUMN). During Habibie's administration the Ministry for the Cultivation of State Owned Enterprises led by Tanri Abeng involved Golkar in the channeling of 2 percent of the profit of all State Owned Enterprises to provide interest-free loans to small entrepreneurs and cooperatives (Kompas: 21 May 1999). Since 1994, State Owned Enterprises have indeed been obligated by the government to set aside 2 percent of their annual profits to this end. This program was once frozen upon the ouster of President Soeharto, but on the eve of the 1999 General Election campaign, then State Minister for the Cultivation of State Owned Enterprises Tanri Abeng reinstated the practice. It is alleged that this was a move on the behalf of Golkar to purchase votes on the eve of the General Election. Why did the State Owned Enterprises require the assistance of a political party to distribute the 2 percent fund to its intended recipients? Why wasn't the said fund channeled through non-government organizations or religious institutions free of political affiliation?

Under the administration of President Abdurrahman Wahid, which is not dominated by any one party, State Owned Enterprises are still looked upon as cash cows that are up for grabs. As previously mentioned, the appointment by President Wahid of Rozy Munir as State Minister for the Cultivation of State Owned Enterprises in place of Laksamana Sukardi gives evidence to the struggle between the PKB and PDI-P for control over the State Owned Enterprises. While another New Order/Golkar cash cow - the State Logistic Agency, also previously discussed looks set to remain as such in the post-Suharto era.

The People's Sovereignty Party (PDR) chaired by Adi Sasono, who became the Minister of Cooperatives and Small Entrepreneurs under the Habibie administration, took advantage of the government's Credit for Farmers Program (KUT) for the purpose of collecting votes during the General Election of 1999. This particular case warrants singular discussion as it clearly demonstrates how the interests of a political party that is allied with the ruling party (Adi Sasono was very close to President Habibie at the time) are able to radically change a government program and render it near useless.

When he was Minister of Cooperatives in the Habibie administration (May 1998 - October 1999), Adi Sasono was convinced that the IDR 300 billion budgeted for the KUT was inadequate. Changes were then made to various government policies to enable the increase of the allocation of funds to IDR 8.4 trillion. The problem with this initiative was that while the KUT allocation increased from an estimated IDR 300 billion in fiscal year 1997-1998 to a staggering IDR 8.4 trillion during fiscal year 1998-2000, the level of its bad debts increased accordingly from 17 percent to nearly 75 percent (Kompas: 25 February 2001).

The relatively small KUT allocations of the past were not entirely due to previous administrations' lack of commitment to farmers. The Manual for the Implementation of KUT Channeling for the Intensification of Rice, Crops and Horticulture published by the Department of Cooperatives and Cultivation of Small Entrepreneurs in 1997 and 1998, or immediately following the policy changes effected by Adi Sasono, explains the need for the strict implementation of the prudence principle to counter bad debts. Most of these mechanisms were eliminated with the issuance of the Decree of the Directors of Bank Indonesia concerning Credits for Farmers/8-12-98, and the Decree of the Minister of Agriculture and Minister of Cooperatives, Small and Medium Entrepreneurs/9-12-98 concerning Guidance on the Implementation of Credit for Farmers for the Intensification of Rice, Crops, and Horticulture, along with their various implementing regulations.

With the loosening of the former preconditions for prudence, the fruit of Adi Sasono's labor, IDR 8.4 trillion was ready for disbursement. Below are several of the principles of prudence that were eased:

1. The change in the role of banks from executing agents to channeling agents. Under the new KUT regulations, cooperatives and non-government organizations became the executing agents and consequently served as the spearhead of the PDR to mobilize support in the 1999 General Election. The results of this were that:
 - a. The experience and knowledge of the banks in assessing credit feasibility was no longer applied, while the cooperatives and NGOs were not sufficiently trained and equipped to assume this function.
 - b. The Technical Manpower Administration (TTA), which consisted of bank

representatives placed in the Village Cooperatives to, jointly supervise the channeling, utilization and return of the KUT ceased to exist.

By doing away with the role of the bank as a party to the assessment of the feasibility of the credit, the funds were more liberally dispersed. Especially considering that the executing agents were now cooperatives and NGOs, with lower feasibility standards and less stringent requirements.

2. The requirements of KUT channeling agents were relaxed. The former regulations prescribed strict requirements for a KUD wishing to become an executing agent for the KUT as listed below:
 - a. The organizational and business condition of the KUD must be acceptable
 - b. The KUD must have experience in the field of credit
 - c. The KUD must have caretakers and managers who are able to manage and secure credits
 - d. The KUD must not have any remaining KUT for rice or crops from the last two planting seasons in excess of 20 percent, and payment of the rice, crops and horticulture KUT from previous planting seasons must have been paid in full.
 - e. A KUD acting as a channel for the horticulture KUT must hold market guarantees in the form of cooperation with companies or individuals as accommodated in the cooperation agreement.

Under the new regulations, the requirements that the cooperatives and NGOs must be fit and have expertise in the field of credit, possess competent human resources, and hold market guarantees are strangely absent. The requirement regarding the remaining KUT from the previous two seasons was eased from 20 percent to 50 percent. With the slackening of the criteria for executing agents, in effect those cooperatives or NGOs supportive of the PDR regardless of their poor performance, incompetence, and inaccessibility to the market could easily become executing agents. However, despite its initiative the PDR failed to obtain significant voting power in the 1999 General Elections and as a result of its utilization of the KUT for the purpose of vote buying, the level of bad debt has reached levels detrimental to both the government and the farmers.

Legal Weaknesses in the Problem of Money Politics

When compared to Law No. 1/1985 concerning the General Election, Law No. 3/1999 appears to be quite progressive. Such progress is a welcome event when one considers the multitudinous violations committed in the General Election of 1992, due primarily to the fact that Law No. 1/1985 fails to impose legal sanctions (Irwan and Edriana: 1995). On the other hand, Articles 72 and 73 in Law No. 3/1999 impose clear sanctions on all related violations (see Table 2). However, the problem is that the wording of the portion of the law that regulates criminal sanctions against the violation of the Direct, General, Free, and Confidential (LUBER) principles is such that it can be appropriated and interpreted to accommodate political interests.

Table 2 below shows that there are fatal weaknesses in Law No. 3/1999 in its ability to regulate a General Election that is honest and fair, and of course free from money politics. With respect to money politics in particular, violations that take the form of presenting or promising to bribe a person to influence their vote shall be subject to imprisonment for a maximum of 3 years. The presenting of campaign fund contributions in excess of the limit stipulated by the KPU shall be subject to imprisonment for a maximum of 3 months or a maximum penalty of IDR 10 million. Seeing that the criminal sanction and penalty use the maximum approach, a maximum sentence of 3 months imprisonment or a maximum penalty of IDR 10 million can be negotiated and adjusted so as to impose a punishment as light as a 1 day confinement period or a penalty as low as IDR 100.

Thus, the criminal sanctions and penalties of Articles 72 and 73 are not sufficiently severe or enforceable to deter the practice of money politics, as criminal penalties are only effective if based on the minimum principle, which must itself be supported by an extended period of detention and a substantial penalty. For example, the contribution of funds in excess of the legal limit should be subject to a minimum 1-year confinement period or a minimum penalty of IDR 500 million.

Law No. 3/1999 also does not determine the limit of campaign spending so as to prevent vote buying. The said limitation is necessary in anticipation of collusion between political parties and their contributors. This is due to the fact that money plays an important role in determining the voting results of a given party, especially in underdeveloped regions of the country.

**Table 2. Criminal Sanctions For Violations Against The Principles Of LUBER
In Law No. 3/1999, Articles 72 And 73**

Type of Violation	Criminal Sanction
Deliberately providing false identities on the voter register	Imprisonment for a minimum period of 1 year
Copying or falsifying election documents	Imprisonment for a maximum period of 5 years
Deliberately confusing, obstructing or disturbing the course of the General Election	Imprisonment for a maximum period of 5 years
Deliberately and with violence or threats of violence preventing a person from executing his/her voting rights	Imprisonment for a maximum period of 5 years
To present a bribe or promise to bribe a person to influence their vote	Imprisonment for a maximum period of 3 years
To intentionally cause a person's vote to be of no value or to cause certain parties to receive additional votes	Imprisonment for a maximum period of 3 years
Deliberately participating in the general election by claiming to be someone else	Imprisonment for a maximum period of 5 years
Voting more than once	Imprisonment for a maximum period of 5 years
Deliberately causing the General Election to be aborted or by trickery influencing the voting results	Imprisonment for a maximum period of 5 years
As a master or superior, failing to provide workers the opportunity to vote without good reason	Imprisonment for a maximum period of 3 years
As an organizer of the General Election, months neglecting duties	Imprisonment for a maximum period of 3 months or a maximum penalty of IDR 10 million
Presenting campaign donations in excess of the limit determined by the KPU	Confinement for a maximum period of 3 months or a maximum penalty of IDR 10 million

Note: Summarized

Such limitations of campaign spending should be determined by the General Election Committee (KPU) and audited. Violations against the said stipulations must be met with administrative sanctions in the form of freezing the support fund from the State/Regional Revenue and Expenditures Budget, or even suspending the relevant political party's participation in the General Election.

Law No. 3/1999 also does not clarify the definition of a contribution. Are the limits applicable to a party in all branches and districts? If not, institutions or companies will be able to make contributions that exceed the regulated limit by contributing them at each of the chapters of a given political party. On the other hand, contributors must be organized so as to prevent a company from taking advantage of its subsidiaries (such as happened in the case of Golkar described above) or other companies in its corporate group to ensure that its contributions do not exceed the permitted limits.

In order to avoid such occurrences, the relevant law and its mechanism implementation must be amended. The existing rules are useless if they cannot be properly implemented. In the General Election of 1999, evidence was gathered proving that bribery and vote buying frequently occurred without any impediment whatsoever from law enforcement. And instead the electoral laws merely served to smear the misdeeds and rampant corruption of the 1999 General Election with a thin veneer of democracy.

Another major problem is how to prevent a political party from exploiting government programs for the purpose of collecting votes in the General Election. During the Suharto administration it was widely known that if Golkar lost in a region, then the infrastructure development in that region would be neglected. In the 1999 General Election it was indicated that the Social Safety Net (JPS) might be used to threaten voters. The questions now are, what legal instruments are required to prevent political parties from using government programs to intimidate and threaten voters into voting a certain way, and; what laws and sanctions must be implemented to prevent political parties from restructuring government programs (as in the Credit for Farmers (KUT) program) and then using them as a means to obtain votes?

It is apparent that a Code of Ethics of the General Election that imposes severe and firm sanctions against violations must be formulated. However, this Code of Ethics also requires the

formation of a General Election Committee (KPU) that is truly professional and impartial. If the KPU has become a place for political dispute or the promulgation of KKN, then the Code of Ethics of the General Election will remain nothing more than a contrivance for the pursuit of political interests.

SUMMARY OF RECOMMENDATIONS

The arguments presented in this paper have shown that the political contention between the executive and legislative has resulted in its inability to implement the administration of a country that is free of KKN. The preconditions for the implementation of Law No. 28/1999 and MPR Decree No. XI/MPR/1998 are 1) a national consensus on whether Indonesia will adopt the presidential or parliamentary system of governance, and whether the General Election is to be regulated by the district or proportional system; and 2) a restructuring of the constitution and the legislature so as to prevent contradictory interpretations and political deadlock. However since the said preconditions do not appear imminent, the current struggle for power will continue to persist until 2004. In the short term, measures that are capable of at least minimizing KKN in Indonesia must be tried. Such short-term measures might include the following:

1. It must be affirmed that the main objective of the Code of Ethics of the House of Representatives and the Law on the Presidential Institution is to implement Law No. 28/1999 and MPR Decree No. XI/MPR/1998 in a consistent manner. Therefore, the Code of Ethics of the House of Representatives and the Law on the Presidential Institution must be positioned under the said Law and Decree. The Law on the Presidential Institution has become a problematic one since it is positioned equal to Law No. 28/1999 and higher than MPR Decree No. XI/MPR/1998. To overcome this, one of two solutions must be put into practice: 1) The rules of the Presidential Institution must not be written into Law; or 2) The essence of Law No. 28 of 1999 must be incorporated into the 1945 Constitution through an amendment.
2. Once the problem pertaining to the position of the Law has been resolved, any decision rendered by the House of Representatives or the President that does not violate the procedure of the Rules of Order of the House of Representatives and the rules of the

Presidential Institution but is in violation of the said Law and Decree, shall be brought before the Supreme Court of Justice which shall then mete out sanctions against the offending parties in accordance with the prevailing laws.

The prevailing laws should provide firm and severe sanctions and be based upon the minimum sanction principle. Violations that are currently void of sanctions must immediately be supplemented with clear sanctions. For example, article 5 of Law No. 28/1999 that obligates the members of the House of Representatives to publicly declare their wealth must be supplemented by clear sanctions against any members of the House that fail in their obligation as prescribed by the KPKPN. The prohibition concerning members of the House of Representatives holding corporate positions must also carry with it clear and severe sanctions.

3. Particularly for the executive office there must be a clear rule of law governing the function of the political middleman, or power broker, typically assumed by those close to the President. For example, Law No. 28/1999 could be amended to stipulate that if individuals choose to play the role of the political broker by arranging meetings between the President and other parties to the end of furthering private political and economic interests in violation of Law No. 28/1999 and MPR Decree No. XI/MPR/1998, then those individuals must be declared as accessories to KKN, and subjected to severe punishment.
4. With regard to the General Election, Law No. 3/1999 should be amended to clearly set limits on campaign spending. Such limits should be determined by the Committee for the General Election (KPU) and carefully audited. Violation of those provisions must be met with administrative sanctions such as freezing the support funds of the offending party from the State/Regional Revenue and Expenditures Budget, or suspending the relevant party's participation in the General Election.
5. Law No. 3/1999 does not clearly define the limits and procedures pertaining to political contributions. If no firm definition is put forth, the contributing institutions or companies will simply route their excessive contributions through the various chapters of the beneficiary political parties or through the sister or subsidiary companies within their corporate group to break the contribution down into amounts within the permissible limit.

6. Still on the topic of Law No. 3/1999, Articles 72 and 73 of the same do not pose any preventative threats to those individuals; institutions, or agencies engaged in corruption and money politics. The said preventative threats and penalties will only function as intended if based on the minimum principle. The minimum limitation must also be supplemented with a lengthy detention period and a substantial penalty. For example, contributing funds in excess of the predetermined limit should be met by a minimum prison term of 1 year or a minimum penalty of IDR 500 million.
7. What must also be anticipated in the upcoming General Elections is the exploitation of government programs, such as the KUT (Credits for Farmers), by political parties for the purpose of collecting votes. A question that must be asked is, what legal instruments are needed to effectively prevent such ill use of government programs on the behalf of political parties? It seems that a Code of Ethics for the General Elections that imposes severe sanctions against such offenders, such as suspension from the General Election, would achieve the desired result.
8. If the current power struggle between the executive and the legislative continues to persist, and the reorganization of the legislature and legal system remains unattended to then the public must be given the legal latitude necessary to execute control. For this purpose, the legal procedure for class action suits must be clarified and facilitated. Such legal procedures must be communicated nationally so that NGOs and the public at large can easily participate within the framework of regional autonomy.
9. Finally, the reverse evidence system, meaning that a KKN suspect is deemed guilty until proven innocent, must be implemented. This concept is on its own insufficient being that the police and the Attorney General's Office, two legal channels with inherent links to bribery and corruption, would still lead any related investigations. This being the case, the ideal system would be similar to the one proposed by Adi Andoyo while still serving as the Chairman of the TGPTPK, namely that the President must issue a government regulation to replace the law (Perpu) and bypass the procedural laws now in place that continue to impede the prosecution of cases of KKN, and in their place form a Special Court for Corruption with its own prosecutors and judges.

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CORRUPTION AND INDONESIAN SOCIETY

By *Sudirman Said** & *Nizar Suhendra***

ABSTRACT

The problem of corruption has affected Indonesian society at every level, and permeated every aspect of our daily lives. Directly or indirectly, our life cycle accommodates a great many corrupt practices from the time we rise in the morning until we retire in the evening; from the day we are born until the day we die. Procuring birth certificates, enrolling our children in schools and universities, job hunting, retirement, healthcare and purchasing property are just a few of the activities each of us undertakes during our lifetimes that involve corruption to varying degrees.

Corruption as practiced in Indonesia takes many forms from crude to sophisticated (Tempo: February 2001), and ranges from stealing money from safe deposit boxes to skimming project

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funding, from marking up costs to extorting commissions from contractors, and from selling licensing facilities to giving blank shares to public officials. What is more, corruption has in recent years morphed into a complex nearly elegant system that has become increasingly difficult to trace using conventional methods. This more complex modus operandi comprises money laundering, embezzlement, issuing laws and regulations to the benefit of select groups or individuals, and the intimate relationship between politics and big businesses. This explains why from the many surveys conducted by international agencies; Indonesia receives particularly poor marks in the area of transparency and corruption. Since 1995, Indonesia has held its place among the top 10 most corrupt countries in the world, according to Transparency International.

There are many factors that contribute to the corruption that governs Indonesian society. Corruption must be viewed in a socio-cultural context, taking into consideration the political structure and legal order of the society concerned. The historical background, political development, policies and process of government of any given society form the starting point for the growth of corruption.

In the Indonesia model, the ties between businessmen have become more apparent as the role of the private sector in the national economy becomes more dominant. When economic transactions and the distribution of capital were state dominated, Indonesians found it easy to blame government bureaucracy as the primary cause of corruption. However today, nearly all elements of society contribute to the proliferation of corruption - top officials, political leaders, corporate executives, members of the legislative, BUMN officers, managers and the public at large. Blaming such widespread corruption on the low wages received by civil servants is no longer a valid excuse as in many cases corruption is no longer a means of survival but rather a manifestation of greed and rapaciousness.

The damage inflicted by corruption is no laughing matter: The quality of public service has declined, and varies according to the bribes paid. Businesses are not run based on actual costs due to the cost of corruption that is difficult to quantify. A high cost economy has rendered Indonesian products uncompetitive. Many in business are more inclined to chase quick money than to improve the quality of their goods and services. Society in general is for the most part unaware of the detrimental effects of corruption. The public is continually forced to absorb

higher living costs as utilities, taxes, retribution, toll road tariffs, fuel prices, school tuitions, and basic commodities continue to require additional fees. As such Indonesia's citizens bear the price of corruption, its benefits are enjoyed only by those privileged and powerful few who are in control of the public and private sectors.

In an effort to reverse this deteriorating trend, the Indonesian government has throughout its history launched numerous anti-corruption initiatives beginning in 1957, and continuing throughout the Old Order, the New Order and the Reform governments of B.J. Habibie and Abdurrahman Wahid. During the New Order, no less than 14 initiatives, including the issuance of laws and regulations, the establishment special teams, commissions and the like were implemented. Between 1973 and 1998, each five-year General Outline of the State Guidelines (GBNH) drawn up by the General Session of the People's Consultative Assembly (MPR) placed the eradication of corruption high on the agenda. During Habibie's 18-month administration, the political will to eradicate corruption was articulated in an MPR Decree, the amendments to the Anti-Corruption Act, and the establishment of an independent anti-corruption agency. Abdurrahman Wahid also established institutions such as the Joint Team for the Eradication of the Criminal Act of Corruption (TGPTPK), the National Ombudsman Committee (KON), and the Investigating Committee Into the Wealth of State Officials (KPKPN).

Thus far, these efforts have not yielded the desired effect. One reason for this is the gap between the complexity of corruption and the simplicity of the elimination methods. What is more, systemic corruption involves every sector of society, and calls for an integrated instead of sporadic approach. Also, on every occasion no personal commitment from the head of state was publicly made. In fact, during the administrations of Soeharto, Habibie and Wahid, the president's inner circle lacked the political sense to avoid accusations of corruption and was instead constantly embroiled in numerous scandals and high profile corruption cases. In addition, each of these three presidents failed to carry out institutional development capable of minimizing and limiting corruption in all its complexity.

Today it is clear that society is skeptical of the feasibility of eliminating corruption as years of experience to the contrary have convinced us of the government's inability or unwillingness to take the necessary steps to this end. Even the Wahid administration, which was democratically

elected on the premise of governance reform (primarily the eradication of corruption), has not demonstrated its resolve in this regard. Contrarily the government of Abdurrahman Wahid has disregarded the problems of corruption, further eroding the confidence of the public and the international community in the Indonesian government.

The complexity of the problem and the many parties to it considered, the eradication of corruption must be made a national action. This means that a collective consciousness must be fostered at all levels of society where corruption threatens the livelihood and development of the Indonesian people, and a united effort made towards its elimination. It is simply naïve to leave this effort exclusively in the hands of the government. Although the government must take the lead, the level of public commitment will ultimately determine the success or failure of any action.

In institutional terms, the public has pinned its hopes on the establishment of an independent anti-corruption body to assume a leadership role in the elimination and future prevention of corruption. Such an institution must also be able to inspire public and media participation in preventative education, campaigning, and citizen action groups. In implementing its programs, this body must be able to respond to the impotency of law enforcement agencies either by pressuring law enforcement officials or by assuming the function of law enforcement with regard to cases of corruption.

In short, the false sense of security espoused by society resulting from the gradual rationalization of corruption must be upset, and the Indonesian people be made aware that their right to success and happiness is being violated by corruption. A nationwide awareness campaign to evoke public outrage against corruption should be considered as a starting point. Increased public awareness will result in a concerted bipartisan effort, based on a collective awareness to eradicate corruption.

The fall of many dictatorships has been brought about by public outrage against the corruption of such regimes.

However, the public can also become disillusioned by widespread corruption under democratic governments, resulting in the rise of new dictatorships.

- Oscar Arias Sanchez: 1995

INTRODUCTION

Much of what is written on the topic of the future of Indonesia fails to include corruption as an important determinant. Other issues such as macro-economic development, the dangers of disintegration, the threat of globalization, political transition and social development seem to command the attention of scholars and observers.

Two possible reasons for this disturbing trend are 1) corruption is viewed as a micro problem that does not significantly impact national growth and development, especially when compared to other problems; and 2) we view corruption as a reasonable social ill based on its prevalence in our lives. As a stable boy is no longer bothered by the smell of horse manure because he lives and works amidst it, similarly, we as a society are no longer disturbed by corruption because of its prevalence.

Decades ago, Bung Hatta declared that corruption had become part of Indonesian culture. Even though many cultural experts deny this claim, the facts are to the contrary. Habitual actions can deservedly be classified as part of our culture. Every day we experience and observe numerous instances of corruption and we no longer frown upon so-called *coffee money*, *grease rtnership fees*, *honorary fees* and other similar manifestations of extortion and corruption as they have become acceptable (Tempo: 5-11 February 2001). Even the international community has come to accept corruption as an integral part of living and conducting business in Indonesia. Some even go so far as to opine that the Indonesian economy would stagnate in the absence of bribery and extortion.

This *must be bribed* attitude has corrupted even the executives of private companies that control resources and decision making authority at all levels. For example, the personnel manager

will charge a service fee to process an employee's overtime or compensation claim. In the Purchasing Division each outgoing order will be charged a fee to be shared between the perpetrator and his/her colleagues. The finance division requires kickbacks to ensure that claims are disbursed on time. At the upper levels, this game is more sophisticated and not limited to commissions, but also includes the accumulation of inter-bank transfers in personal accounts, and service fees from large contractors to secure projects.

Webster's Third New International Dictionary defines corruption as an invitation (from a public official), based on improper considerations, to violate one's duties. An act can be categorized as an act of corruption if it has the following elements: 1) one or more perpetrators; 2) is in violation of applicable norms, either moral/religious, ethical or legal; 3) is detrimental to state or public finances or wealth, either directly or indirectly; or 4) is perpetrated to serve personal interests or the interests of a certain group/class (Juniadi Soewartojo: 1997). The World Bank succinctly defines corruption as *the abuse of public office for private gain*.

In 1982, during an interview with the *Eksekutif* magazine, Admiral Sudomo who at that time was the Chairman of the Opstibpus offered his personal definition of corruption as follows:

Actually, corruption has three aspects; the first is controlling or obtaining money from the state for private interest through illegal means. The second is the abuse of power in order to gain facilities or otherwise benefit. The third is the collection of unofficial levies. These unofficial levies usually result from an exchange between two persons, typically a public official and a private individual, in which the said official grants certain facilities to the individual in return for payment.¹

In his book *Controlling Corruption*, Robert Klitgaard urges his readers not to spend time trying to define corruption, but rather exploring ways to eradicate it. Nonetheless, *Controlling Corruption* defines corruption as follows:

Corruption occurs when an individual illicitly puts personal interests above those of the public and the ideals he or she is pledged to serve. It comes in many forms and can range from trivial to monumental. Corruption can involve the misuse of policy instruments - tariffs

¹ EKSEKUTIF: no. 39, September 1982, Sudomo Interview: There is Political Will, page 9-10.

and credit, irrigation systems and housing policies, the enforcement of laws and rules regarding public safety, the observance of contracts, and the repayment of loans - or of simple procedures. It can occur in the private or public sector, and often occurs in both simultaneously. It can be rare or widespread; in some developing countries, corruption has become systemic.

Corruption can involve promises, threats, or both; can be initiated by a public servant or an interested client; can entail acts of omission or commission; can involve illicit or licit services; can be inside or outside the public organization. The boundaries of corruption are hard to define and depend on local laws and customs. The first task of policy analysis is to disaggregate the types of corrupt and illicit behaviors in the situation at hand and look at concrete examples.²

THE MATHEMATICS OF CORRUPTION

The magnitude and the scope of corruption in Indonesia are estimated by some at 30 to 45 percent of the annual State Budget (APBN). The private sector estimates that a minimum of 30 percent of production costs is used to pay *unofficial fees*. More than IDR 100 trillion from the Bank Indonesia Liquidity Support Fund (BLBI) vanished when dozens of private banks went bankrupt robbed by their owners and executives. State owned enterprises (BUMN) have also become hotbeds of corruption involving vast sums of money. The following are excerpts from various sources concerning the level of corruption in Indonesia:

A 30 Percent Leak

The late Prof. Soemitro Djojohadikusumo stated at the Congress of the Association of Economic Graduates in Indonesia (ISEI) in November 1993, that a total of 30 percent, or approximately IDR 12 trillion, of the development funds allotted for the fifth Five-Year Development Period (1989 - 1993) were embezzled.

² Robert Klitgaard, *Controlling Corruption*, University of California Press, Berkeley: 1988, Page xi.

Indonesia's ICOR: The Highest In ASEAN

The same Prof. Soemitro Djojohadikusumo, during his opening speech at the FEUI Alumni Reunion, declared the level of productivity in Indonesia to be low because its ICOR (Incremental Capital Output Ratio) was around 5, the highest in ASEAN³. In other ASEAN nations, one unit of results requires 3.5 to 4 units of investment, whereas in Indonesia the same requires 5 units of investment.

Unofficial Levies At 30 Percent Of Production Costs

A great many levies have been imposed on the private sector resulting in the leakage of development funding and state public sector investments, and a high cost economy. In 1996, the Deregulation Team succeeded in identifying no less than 200 types of official and unofficial levies in existence. At the time, unofficial levies exclusive of official ones accounted for 30 percent of production costs .⁴

The 45 Percent Leak In Development Funds

Based on research conducted by Dr. Kastorius Sinaga in cooperation with the World Bank, an amount equivalent to 45 percent of the national budget is leaked from development funding comprising APBN and foreign loans.⁵

Further, DR Kastorius Sinaga's research identified 11 crucial points of leakage in the development fund, namely⁶ : 1) the compilation of the List of Proposed Projects (DUP); 2) the DUP proposal; 3) the discussion of the proposed projects; 4) the tender/bidding process; 5) the preparation of bank references; 6) the realization of the project; 7) the payment for the project; 8) the commission for the project foreman; 9) the commissions for the KPN officers; 10) the process of the transportation of goods; and 11) the supervisory period.

³ GATRA: September 1996, Indonesian Economy: Development Strategy.

⁴ SUARA PEMBARUAN: 2 August 1996, 30 Percent of Total Production Costs are Unofficial Levies.

⁵ SUARA PEMBARUAN: 2 August 1996, 30 Percent of Total Production Costs are Unofficial Levies.

⁶ MEDIA INDONESIA: 27 July 1995, Eleven Crucial Points of Leakage in Development Funds.

The Level Of Corruption Over 30 Percent

A poll conducted by *TEMPO*, revealed that the level of corruption in Indonesia has reached 30 percent⁷. Although no specific research has been conducted to verify this issue, nevertheless, the poll highlighted the social perception of corruption.

Cases Of Corruption On The Rise

During his speech before the Plenary Session of the DPR on 16 August 1999, President B.J. Habibie stated that between 1 April 1998 and 31 March 1999, investigations into cases of corruption increased to 595 percent, a rise of approximately 349 percent in examinations and 321 percent in indictments, compared with the same period the previous year. From those cases, estimated state losses of IDR 7.2 billion were determined.⁸

Moreover, in 1999 at least 11 major cases were investigated. The losses incurred are as detailed below:⁹

⁷ TEMPO INTERAKTIF: Red Light for RI's Economy? Tempo's Center for Data and Analysis, Jakarta.

⁸ KOMPAS: 4 October 1999.

⁹ MTI, Building the Foundation for Good Governance During the Transitional Period, 2000

NO	CORRUPTION CASE	VALUE OF LOSS	FOLLOW-UP
01	BLBI	IDR 89.67 trillion from the BI fund,	It was recently estimated that of the The DPR submitted several names IDR 114.539 billion was distributed linked to this case to the attorney general's office (AGO). The AGO has launched an investigation, but to date, no suspects have been sentenced to the banking sector.
02	PERTAMINA	Over IDR 43 trillion	The AGO has summoned several suspects such as Bob Hasan, Sigit Harjojudanto and former managing director of Pertamina, Tabrani Ismail. However, to date, no decision has been made regarding this case.
03	PLN	IDR 15.78 trillion	PLN has submitted 64 of its projects to the scrutiny of BPKP. These projects include three PLTGU (steam gas power plant) projects and 27 private electricity projects that are suspected of being directly appointed without a tender.
04	Dept. of Forestry and Plantation	IDR 15.025 trillion	The Inspector General of the Department of Forestry and Plantation is still validating the data regarding this loss in coordination with BPKP, the mass media, and several NGO's. The suspect, Bob Hasan, has been officially declared guilty, although his sentence has not managed to convey a sense of justice.
05	Soeharto's 7 Charities	IDR 4 trillion	The Court has ruled that the prosecutor's charges are unacceptable because the former President was declared medically unfit to stand trial.
06	The National Car Program	The Dept. of Finance estimate: IDR 3.093 trillion. Sucofindo's estimate: USD 1.055 billion	To date, no suspect has been brought to trial.
07	BNI-TEXMACO	USD 1.5 billion	The prime suspect, Marimutu Sinivasan was released by the AGO pursuant to the issuance of an SP3 (Letter for the Termination of an Investigation into a Certain Case).
08	Bank Bali	IDR 798 billion	To date, none of the suspects have been incarcerated.
09	BRI	IDR 572.2 billion	No further legal action against the suspects, namely Djoko Santoso, The Ning King, and Djoko Chandra has been taken. The AGO has issued an SP3 for this case.
10	The General Election Commission (KPU)	IDR 117 billion	This case is only now being investigated by the AGO.
11	Brunaigate and Buloggate	IDR 35 billion/USD 2 million	This case, allegedly involving President Wahid, has prompted the issuance of two memorandums by the DPR. The dossier has been handed over to the Police and the AGO.

THE MODUS OPERANDI OF CORRUPTION

The nature of corruption evolves almost daily. Jeremy Pope in his National Integrity System Source Book, which has been translated into Indonesian, classifies the modus operandi of corruption into four categories

1. Collusion and nepotism
2. Corruption for political gain
3. Commission or collection
4. Various types of fraud

The most conventional form of corruption is stealing the property of others or robbing the office deposit box or treasury. Small-scale corruption is such where the results are relatively insignificant but the risk of exposure is high. Refrizon Baswir in his paper titled The Strategy to Create a Clean Government, identifies seven common patterns of corruption:

1. *Conventional*: Misappropriating office inventory and stealing company money are included in this category and are made possible due to insufficient inventory systems, making missing inventories difficult to trace.
2. *Forging Documents*: Creating fictitious receipts, and fake documents (cooperating with an insider and a scalper), by which money intended for the state treasury finds its way into the pockets of certain individuals caused by, among others, a weak administrative system, the ambiguous distribution of power, and the absence of an adequate check and balance mechanism, or internal supervision.
3. *Commission*: Commissions are extorted due to a combination of the authority of public officials and their low wages compounded by greed.
4. *Unofficial Levies*: In order to obtain certain facilities or positions, it is customary for low-level staff to pay unofficial levies to their superiors. These levies can take various forms: money, property, vehicles or sexual favors. Often those appointed to high-level positions due to such levies, immediately engage in similar practices in order to receive return on their investment.

5. *Nepotism and Cronyism:* The awarding special facilities or positions to close friends and family members further facilitates corruption.
6. *Affiliate Companies:* The limited announcement of tender in order to reach an under-the-table agreement is very common. It is not rare for fictitious partner companies to color the tender process of various government projects. In such cases, the bidding process is only a formality, because the winner is predetermined.
7. *Bribery:* Complicated procedures and the bureaucratic chain of command ensure that kickbacks are distributed to all parties concerned. Bribe money makes all the difference between a speedy procedure and a slow one. A difficult licensing procedure can be sped up and an easy procedure be complicated depending on the offer.

Another study regarding the modus operandi of corruption was also conducted by BPKP. According to this study, one way to analyze eradication efforts is by identifying the nature of the acts of abuse that may potentially be categorized as criminal acts of corruption.

NO	CORRUPTION TYPE	MODUS OPERANDI
01	Tax Extortion leads to a lessened and in return the taxpayer directly to the inspectors as a bribe.	Tax Inspectors that inspect taxpayers find an error in the tax calculation that deficit. This deficit is subsequently disregarded or must pay part of the said deficit
02	Fictitious Payment	<ul style="list-style-type: none"> ● Unaccountable expenditures ● Full payment for unfinished work ● Payment for work or purchases not executed ● Production of evidence of fictitious expenditures
03	Manipulation of Official Travel	<ul style="list-style-type: none"> ● Issuing fictitious Letters of Order for Official Travel ● Adding or omitting data related to the said travel such as distance and time
04	Bidding	<ul style="list-style-type: none"> ● The successful bid is determined before the bidding process begins (collusion and nepotism) ● Not requiring bond money from tender participants ● Secretly disseminating the platform for the available funds ● Creating fictitious tender participants
05	Land Manipulation	<ul style="list-style-type: none"> ● The leader of the project and related cronies buy the land and resell it at a higher price ● Marking-up the price for the release of land for development ● Compensation is paid for state land that does not require any compensation
06	Credit Manipulation (for cooperatives)	<ul style="list-style-type: none"> ● Manipulating the list of potential clients and misappropriating funds for private purposes ● Using a part of or the entire credit return fund from the customer for personal interests
07	Contract Price Mark-ups	<ul style="list-style-type: none"> ● Procurement of goods through direct appointment (outside the tender mechanism) ● Preparing a marked-up expense budget and prolonging the transportation period ● Changing the status of agricultural land into residential land ● Consultation fees charged several times per transaction ● The bidding committee awarding the lowest offer without comparing the owner estimate
08	Overpayment	<ul style="list-style-type: none"> ● The work paid for exceeds the actual amount of work accomplished ● The procured goods recorded are more than expended for ● The price per unit exceeds the market price

NO	CORRUPTION TYPE	MODUS OPERANDI
09	Cash Shortage	<ul style="list-style-type: none"> ● Borrowing project money for private purposes recorded as project expenses ● Dispensing project funds by forgery ● Double accounting and delays in recording income ● Unauthorized cash expenditures
10	Misappropriation of Funds	<ul style="list-style-type: none"> ● Funds are borrowed for purposes other than intended ● Existing assets are leased to other parties and the rental fees are privately collected while the operational costs of such assets are paid for from the budget
11	Commission	<ul style="list-style-type: none"> ● Making verbal commitments to receive a certain percentage from funds placed in a bank or other financial institution. ● Commission from partners receiving projects
12	Embezzlement of State Funds	<ul style="list-style-type: none"> ● Accumulating interest is deposited and not kept in the state treasury ● Embezzlement of profits from cooperation with PUSKUD, and the embezzlement of receivables ● Cash subsidies are altered to goods subsidies, where the price of the goods are of lower value
14	Forgery of Documents	<ul style="list-style-type: none"> ● Adding and/or omitting data from receipts ● The sale of fuel to third parties while falsifying fuel consumption records ● The issuance of blank receipts already stamped and signed
15	Unofficial Levies	<ul style="list-style-type: none"> ● Asking for a 'cut' ● Compensation without official records, the funds being disbursed to individuals instead of the state treasury ● Grease money for every licensing transaction
16	Suspension of Payment	<ul style="list-style-type: none"> ● The money to pay for invoices is not directly paid, but is kept in private accounts to Affiliates in order to capitalize on the interest over the deposit

INTERNATIONAL PERCEPTION

In view of the above, it is no wonder that the international community perceives the level of corruption in Indonesia to be one of the highest in the world. A great deal of international research further confirms this perception.

Transparency International

Each year Transparency International issues a Perception Index of Corruption that ranks countries based on their respective levels of corruption. Year on year Indonesia is habitually placed at the very bottom of the list, ranked as one of the most corrupt countries in the world as the following chart demonstrates:¹⁰

1995	1996	1997	1998	1999	2000
1.94	2.65	2.72	2.0	1.7	1.7
The most corrupt of 41 countries surveyed	The 10th most corrupt of 54 countries surveyed	The 7th most corrupt of 52 countries surveyed	The 6th most corrupt of 85 countries surveyed	The 3rd most corrupt of 99 countries surveyed	The 5th most corrupt of 90 countries surveyed

A score of 10 indicates transparent governance and 0 extremely corrupt governance

Political And Economic Risk Consultancy (PERC)

PERC is a consultancy company domiciled in Hong Kong. The result of the PERC study conducted in 1997 concerning corruption in Asia, ranked Indonesia as the most corrupt country in Asia behind India, China, Vietnam, South Korea, Thailand, the Philippines, Taiwan, Malaysia, Japan, Hong Kong and Singapore.

THE CAUSES OF CORRUPTION

Many factors influence the level of corruption in society. The causes of corruption for the most part cannot be viewed outside a socio-cultural context and the political and legal state of

¹⁰ Transparency International: Corruption Perception Index 1995, 1996, 1997, 1998, 1999 & 2000, Berlin, Germany.

the relevant social structure. Corruption as a mode of conduct supports several interdependent aspects that contribute to the proliferation of the practice in Indonesian society.

Aspect One: Individuality

Research suggests that the larger the sum of money or the greater the value of the transaction, the higher up the organizational structure (corporate or government) the corruption is condoned. Poverty is no longer a primary cause of corruption as the most prominent corruption cases that have come to light typically involve the rich. The proponents of corruption tend to be those with a relatively high level of income, who engage in corruption on their own accord independent of the prodding of other parties. For such individuals the motivation to commit acts of corruption does not lie with poor management control but instead with moral foibles such as greed and arrogance.

Aspect Two: Organization

Organization in this case, is organization in the widest sense of the word, where it includes the organizational system within a particular social environment. Corruption commonly occurs because the said system allows for it. Such opportunities can present themselves in the form of 1) a lack of moral leadership; 2) an inappropriate organizational culture; 3) the lack of a sufficient accountability system; 4) weak management control; and 5) a management system that is accustomed to concealing cases of corruption.

Aspect Three: The Society In Which The Entity Exists

The values within a given society can sometimes actually encourage corruption. Oftentimes society does not fully realize the losses to itself that it suffers due to even the smallest instances of corruption, for example paying additional money when applying for an Identification Card so as not to have to be bothered with a lengthy process, or bribing traffic police to avoid a court hearing when violating traffic regulations. The public must realize that the level of corruption will decline only if they themselves actively shun any form of corruption.

Aspect Four: Laws and Regulations

In the New Order era, laws and regulations were issued only to the benefit of the President, his family and cronies. Between 1993 and 1998, pursuant to the analysis by the Indonesian Transparency Society (MTI), 79 Presidential Decrees (Keppres) were abused either substantially or according to the principle of fairness. These abuses included, among others, the transfer of the Reforestation Funds to Suharto's cronies.¹¹ The promulgation of Laws and Regulations did not involve public elements, and the Indonesian people were viewed only as legal subjects. Unfair court processes were also to blame for widespread corruption. At the time the risks involved in stealing a chicken and embezzeling billions in state funds were quite similar.

THE DESTRUCTIVE CONSEQUENCES OF CORRUPTION

While many foreign observers are screaming about the acute problem of corruption in this country of over 200 million, the majority of the population - especially those at the lower economic levels - seems not to care. Public apathy has grown into cynicism towards any and all policies created with the intention of eradicating corruption.

These people do however experience the negative effects of corruption. Take for instance farmers whose livelihood depends on the irrigation facilities of their villages. Some complain about the poor quality of the irrigation structure that causes the dam to break during heavy rains, which results in the destruction of their crops, while others complain of not receive any water at all during the dry season because the dam was not built on an accurate prediction of the fluctuation of the river's rate of flow.

Small-scale businessmen and sidewalk vendors in the cities have also tasted the bitter fruits of corruption. They receive low interest capital from the government, which is allocated through cooperatives, but the actual money they receive is often less than the allocation, all the while the obligation to repay the loan becomes heavier. This is due to the irregularities fostered

¹¹ The Indonesian Transparency Society: Final Report of the Work Team for the Legal Division: Research on the Abuse of Presidential Decrees between 1993-1998, Jakarta 1998, page 7

by small-scale corruptors within the management of the cooperatives who, tragically, also claim to be informal businessmen.

Blatantly revealing the destructive force of corruption should increase awareness of how corruption threatens the livelihood of every member of society, similar to the way an unseen tumor or malignant virus can attack and destroy the body's cells resulting in death. That is how dangerous corruption is; it is the number one enemy of a society that holds honesty in high esteem. The damages that have been inflicted by corruption are evident in various forms: economic, political, social, and security.

In processing an Identification Card (KTP) or Driver's License (SIM), the predetermined procedures, fees, and time of completion can actually be tampered with as any applicant can pay additional money to officers at the sub-district office or the police station to expedite the process by bypassing a number of regulated procedures, while those of modest incomes or who are unwilling to pay the additional fees are considered low priority by the presiding officers.

In a corrupt society, business is not carried out based on actual costs, due to the many additional costs that are difficult to account for. Businessmen refer to these as ghost costs that must be expended in order to realize the production or distribution of goods and services. This effectively undermines the impression that the government tries to give to foreign investors, guaranteeing cost efficiency and cheap labor among other things, as there are numerous illicit cost factors that are uncontrollable. As a result Indonesia's high cost economy has caused its products to cease to be competitive. Overpriced local products continue to be bought by domestic consumers because of the monopolies that control the market, and who force consumers to purchase goods and services at prices above their international market value.

Economic observer Mohamad Ikhsan has outlined the chain effect of corruption from a macro-economic perspective. Based on empirical studies, it has been proven that corruption lowers the rate of investment and economic growth because of unsound economic policies that benefit only a few while ignoring the interests of many. Just examine the confusion that erupted over the tender for private electricity, an event that was allegedly rife with KKN, and which destroyed any chance for development by the private sector and made foreign investors nervous.

In their study (1998), Gupta, Davoodi, and Alonso-Terme concluded that corruption increases poverty and inequality. The target of development has veered far off course, as is evident by the blatant abuse of the disbursement for Farmer's Business Credit (KUT). Access to public facilities, particularly with regard to land ownership, has become very limited because they are controlled by a small group of public officials in collusion with certain businessmen.

Corruption has also resulted in widespread distortions of the government budget, such as the development of infrastructure projects that are not in accordance with their specifications. Regions that have poor infrastructures will later be unable to develop other sectors. The central government also practices a policy of bias, paying special attention to certain favorite regions or sectors, while cutting the development budgets for other less lucrative or favored regions or sectors.

Corruption does not only have economic impact. In this era of reform, characterized by political euphoria, corruption is growing on fertile political soil and is without a doubt influencing those in power. The current general electoral system is far from ideal, as the central leadership of each party controls the selection of legislative candidates - supposedly representatives of the people.

The public cannot guarantee the selection of their chosen representative, and even the positions of nominated legislators must be guaranteed by payments to the Regional Selection Board (DPD), the Area Selection Board (DPW) - for members of levels one and two of the Provincial Parliament (DPRD) - and to the Central Selection Board (DPP) for MPs. The number of members of parliament that are genuine public representatives is steadily declining due to corrupt practices that have become a part of the election process.

Similar actions occur during regional elections. The party with controlling votes in the Parliament (DPR) or the Provincial Parliament (DPRD) is not immediately able to place its nominated executive candidate into office because of money politics. As a result, the selection and determination of public officials often ignores the criteria of integrity and competency as positions in public office are awarded to the highest bidder. Not surprisingly, those in control of public resources and funding can ignore legislative control and supervision, because they know very well the costs that are involved.

What has even greater impact is the destruction of public confidence in the judiciary due to the mafia's infiltration of this final bastion of justice. Beginning with the investigating officer, and continuing with the prosecutor, who examines the case and identifies the suspect and which laws have been broken, and ending with the judge who tries the case and renders a verdict - the entire process is staged. Even the defenders of truth (lawyers) who loudly argue their client's case are in Indonesia merely defenders of those who pay.

Many people are unaware of the social implications of corruption. What is more, in a prolonged crisis situation such as we are experiencing now, the social implications of corruption are even more far-reaching. One sad example is the embezzlement of humanitarian aid designated for victims of natural disasters or for refugees. How many victims have died because the emergency medical facilities they required could not be provided due to corruption? Similarly, the Social Safety Network (JPS) program within the educational and health sector is also experiencing a mysterious shortage of funds. These same criminals are also responsible for the disaster of a lost generation.

One critical observer concludes that corruption is positively connected to the death rate and negatively connected to the rate of life expectancy. These thieves of public funds have violated the right to life of millions. Some suggest that corruption cases should not receive the same treatment as other ordinary crimes, but as extraordinary ones similar to human rights violations and crimes against humanity requiring equally extraordinary punishment. Anti-Corruption Act no. 31/1999 stipulates capital punishment as the maximum penalty for corruption.

Another bit of evidence to the dangers of corruption is the national and regional security situation that has quickly deteriorated in recent months. The violent conflicts between warring ethnic and religious groups in several regions (Aceh, Maluku, Sampit, Irian Jaya and others) threaten to spread influenced by social injustice, economic envy and corruption.

It is widely known that Indonesia's security forces (Polri and TNI) have limited resources available to control these explosive situations, which encourages security personnel to take advantage of the conflict for financial gain. Clashes between military and police officers at Samping dock, in Central Kalimantan, stemmed from a dispute over unofficial levies. Fleeing refugees were being forced to pay fees to board evacuation ships and when these illegal proceeds were not

evenly distributed amongst security personnel the clashes erupted. Sadly corruption tends to prolong conflict and put more human lives at risk.

ERADICATION EFFORTS

Corruption is not a new problem in Indonesia. The concept of corruption was officially recognized 44 years ago in Regulation of the Military Authority No. PRT/PM/06/1957. This regulation was issued because the Indonesian Criminal Code (KUHP) was deemed insufficient in combating the corruption of the time. It also signaled the beginning of the government's struggle against corruption, and was further corroborated by Law no. 3/1971 regarding the Eradication of the Criminal Act of Corruption. However, since the struggle began nearly half a century ago corruption has only become more widespread and damaging comparable to a terminal illness. A survey carried out by BPKP confirmed the stranglehold of corruption on every facet of government.¹² This same survey concludes that society has in recent years come to perceive government institutions and agencies as the entities most vulnerable to corruption.

Ever since the beginning of the New Order, various efforts have been carried out to eradicate corruption. Intent to eradicate corruption is apparent in the General Outline of State Guidelines (GBHN). In Chapter IV of the 1978 GBHN¹³, in the section concerning Government Personnel, the desire of the Indonesian people for clean and authoritative government personnel is clearly stated, and has been in every GBHN since. In 1967 Presidential Decree no. 228/1967¹⁴, established the Team for the Eradication of Corruption. In 1970, in order to ensure the smooth operation of eradication efforts, and pursuant to Presidential Decree no. 12/1970¹⁵, the government established Commission IV, which was assigned to scrutinize and review policies and the results achieved by said policies in the effort to eradicate corruption.

¹² Sunaryadi Amin: *The Strategy for National Eradication of Corruption*, BPKP, Jakarta, 1999.

¹³ MPR Decree no. TAP-II/MPR/1973 regarding the General Outline of State Guidelines, Jakarta, 22 March 1973, Chapter IV.

¹⁴ Presidential Decree no. 228/1967 regarding the establishment of a Team for the Eradication of Corruption, Jakarta, 2 December 1967.

¹⁵ Presidential Decree no. 12/1970 regarding the establishment of Commission IV Jakarta, 31 January 1970.

One year later, the Law on the Eradication of the Criminal Act of Corruption was promulgated by Law no.3/1971. In 1977, the government established the Public Order Operation Team (OPSTIB) pursuant to the Presidential Instruction no. 9/1977, in order to improve the authority of government personnel and to abolish all manner of irregular practices.¹⁶ In 1980, Law no. 11/1980 concerning the Criminal Act of Bribery¹⁷ was issued under which both the perpetrator and recipient of bribery can be criminally prosecuted.

In May 1998, after the ouster of Soeharto, President B.J. Habibie in his speech introducing the members of the Development Reform Cabinet stated, the students' struggle to accelerate the process of reform has become a fresh wind that is blowing us into the 21st century. I have duly observed the dynamics of the aspirations that have developed during the implementation of reform, either delivered by the students or by scholars, and even those aspirations that have developed within society at large and the Parliament. Improvement in our political process in accordance with the demands of time and this generation for a cleaner government that is free from inefficiency and the practice of corruption, collusion and nepotism, and for the economic means to conduct business fairly, are aspirations that I have adopted. To this end, I would like to convey my commitment to the public aspirations mentioned above, in order to gradually and constitutionally implement reform in all sectors by improving socio-economic livelihood and increasing the existence of political democracy in line with these demands.¹⁸

As if the above remarks were not enough, Habibie, in his instructions during his first Cabinet meeting, further stated, I would like draw your attention to the fact that the priority status of reform within the government and state administration is primarily aimed at the eradication of corruption, collusion and nepotism as the first step toward good governance. We understand this

¹⁶ Presidential Instruction no. 9/1977 regarding Operation Public Order, Jakarta, 5 September 1977.

¹⁷ The Law of the Republic of Indonesia Number 11 of 1980 regarding the Criminal Act of Bribery, Jakarta October 27, 1980

¹⁸ The President of the Republic of Indonesia, the Speech of the President of the Republic of Indonesia during the Establishment of the Development Reform Cabinet, Jakarta May 21, 1998

matter to be the essence of the 1945 Constitution and the spirit of good governance .¹⁹

Indonesia again displayed a commitment to eradicate corruption when in August 1998 the General Session of the People's Consultative Assembly (MPR) issued MPR Decree XI/MPR/1998²⁰ that unequivocally demanded the formation of a government clean and free from corruption. Pursuant to MPR Decree XI/1998, the Government issued Law no. 28/1999²¹ regarding a State Administration that is Clean and Free From Corruption, Collusion and Nepotism, and Law no. 31/1999²² as a supplement to Law no. 3/1971 regarding the Eradication of the Criminal Act of Corruption.

Pursuant to Law no. 28/1999, the Wahid Administration established a commission to investigate the wealth of state officials (KPKPN). Presidential Decree no. 127/1999 regarding the said commission and the Secretariat General of the Inspection Commission into the Wealth of State Officials was issued on 13 October 1999 to facilitate the inspection of the wealth of state administrators based on a pre-determined standard. The organization comprised a chairman, four deputies, each heading a sub-commission and a secretary general. The results of the inspections were to be delivered to the President, the Parliament and the Supreme Audit Agency.

Furthermore, Law no. 31/1999 stated that at the latest, two years after the promulgation of the Law, a Commission for the Eradication of the Criminal Act of Corruption must be established. In preparation the government through Decision Letter of the Directorate General of General Legal Administration of the Department of Justice and Human Rights, dated 7 July 2000, stipulated the establishment of a Preparatory Team for the Establishment of a Commission for the Eradication of the Criminal Act of Corruption (KPTPK). This team involves elements of the government, the police, the prosecutor's office and NGOs.

Law no. 31/1999, article 27 stipulates that in the event that a criminal act of corruption is difficult to prove, then a Joint Team may be established under the coordination of the Attorney

¹⁹ The President of the Republic of Indonesia, the Directive of the President of the Republic of Indonesia on the Establishment of the Reform Development Cabinet, Jakarta May 21, 1998

²⁰ Clear and Free from Corruption, Collusion and Nepotism, Jakarta November 3, 1998, article 2 paragraph 2

²¹ The Law of the Republic of Indonesia Number 28 of 1999 regarding State Administration that is Clear and Free from Corruption, Collusion and Nepotism, Jakarta May 19, 1999

²² The Law of the Republic of Indonesia Number 31 of 1999 regarding the Eradication of the Criminal Act of Corruption, Jakarta August 16, 1999

General. The Joint Team for the Eradication of the Criminal Act of Corruption (TGPTPK) was established soon afterwards under the coordination of the AGO. This team is considered as a precursor to the Commission for the Eradication of the Criminal Act of Corruption²³ that must be established in August 2001. On 10 March 2000, pursuant to Presidential Decree no. 44/2000, the government established the National Ombudsman Commission, its purpose being to carry out preliminary investigations into reports or information received regarding irregularities in the performance of state administrators .²⁴

On a departmental level, there is the Inspectorate General, and higher up the ladder the BPKP (Financial and Development Audit Agency). On the executive level is the Supreme Audit Agency (BPK). By focusing on the audit of state budgetary finances, based on the state hierarchy and the law, BPK can operate freely. Unfortunately, as was once admitted by its former deputy head, Mr. Kunarto, this agency faces technical drawbacks, such as a shortage of qualified manpower, budgetary constraints and insufficient facilities. In addition to these, many of BPK's findings are not conclusively investigated by the AGO the reason given being that such reports are insufficient thereby rendering the AGO unable to construct charges (FORUM KEADILAN: 11 March 1999).

The above explanation clearly shows that there is no shortage of regulations and agencies to combat corruption issued and formed both during the New Order and under the current administration. However as time goes by, instead of diminishing, corruption seems only to become more prevalent and destructive; and those who once raised their voices against corruption have turned out to be some of its greatest supporters .²⁵

WHY ARE THEY INEFFECTIVE?²⁶

²³ MPR-RI, Decree Number XI/MPR/1998 regarding State Administration that is Government Regulation no. 19/2000 article 18.

²⁴ Decree of the President of the Republic of Indonesia no. 44/2000, Jakarta, 10 March 2000.

²⁵ Amin Sunaryadi: *The Strategy for Eradicating National Corruption* (Jakarta: BPKP, 1999), page 23

Now I list what I believe to be the primary causes of the ineffectiveness of eradication efforts in Indonesia.

Weak Political Infrastructure during the New Order

The most prevalent form of corruption in Indonesia is political corruption; where those who hold legitimate power abuse the authority they have been given (abuse of power). Even the 1945 Constitution, the country's highest legal authority, provides opportunities for such abuse. The articles governing the membership of the MPR and the appointment of regional representatives and bodies in particular only serve to support the power of the president. Article 5 concerning the President's authority to create laws in collaboration with the Parliament, clouds the principle of check and balance. The fact that the president is elected by the MPR based on a majority vote infringes on the principle of democratic election and representation. Article 21, regarding judicial authority has also contributed to the growth of corruption in Indonesia.

During the New Order, what was mandated by the 1945 Constitution was not properly implemented due to the operational authority that centered on the President. This centralization of power rendered state institutions appointed to maintain political equilibrium as rubber stamps for the whims of the executive.

The national political infrastructure is also very top heavy, a condition that has contributed to the stagnation of the government's efforts to eradicate corruption. For instance, in a conventional judicial system, the highest legal authority is the Supreme Court, but in Indonesia high-level government officials can influence the actions of judges. Under the New Order the Parliament was not permitted to function as intended due to the fact the President reserved the right to dismiss those MPs that actively criticized the government because during his tenure as President, Soeharto was also the chairman of the Guidance Board of Golkar a political body with the authority to recall members of the Golkar party - the house majority.

The position of the Supreme Court pursuant to Law no. 14/1970 is actually quite independ-

²⁶ Amin Sunaryadi: *The Strategy for the National Eradication of Corruption* (Jakarta: BPKP, 1999), page 109

ent of the President. However, because the President maintains direct control over the Parliament, where candidates for Supreme Judges, Chairman, Deputy Chairman and Junior Chairman of the Supreme Court were nominated he is also able to influence the selection of candidates nominated by the Parliament. Therefore, so long as the national political infrastructure remains the same the Supreme Court will never be completely independent of the executive as its members will at least be obliged to the President for influencing their nomination.

The same applies to the BPK. This agency is assigned to audit state finances and present its findings to the Parliament. Even though Law no. 5/1973 separated the BPK from the executive, in practice the President has indirect operational control over BPK. This is because of the President's control over the Parliament, where candidates for the positions of Chairman, Deputy Chairman and Members of the BPK are nominated. This state of impotent authority also occurs in the Supreme Supervisory Agency and the People's Consultative Assembly. During the New Order, pursuant to Law no. 2/1985, the President played an important role in selecting non-elected parliament members. As a result the parliament was itself under the de-facto control of the President.

The Absence of a Role Model and a Strong Commitment from Leadership

The absence of genuine commitment from the leadership of Indonesia with regard to corruption has also contributed to its popularization. Since the time of the Soeharto administration, the presidential circle has exhibited an attitude of tolerance toward corruption. This has made it impossible to prevent allegations of corruption from being leveled against the executive. The absence of a role model at the national leadership level has accelerated the spread of corruption to even the lowest levels of government and civil service.

The Absence Of A Comprehensive And Systematic Strategy

As in any war, in order to win the war against corruption, we must first positively identify the enemy and determine its weaknesses, strengths and position, after which an effective battle plan can be formulated. Without such strategic planning, the battle against corruption is doomed to defeat and frustration. Passivity is as good as surrender. If the effort to eradicate corruption is

not supported by the public, the executive, legislative and judiciary and coordinated under a consistent and comprehensive strategy it will be unbalanced and meet with certain failure. Corruption is generally well planned and executed and so must be any efforts made to eradicate it.

Weak Regulatory Personnel

To date no government institution or agency has emerged as a force in the eradication of corruption. It seems that the various government institutions and agencies responsible to lead in this struggle are more interested in trying to wrestle power away from each other than they are in coordinating their efforts. Incompetent staff also more often than not understaffs these institutions and access to information and resources is limited. The problem of corruption is a complex and multi-dimensional one that must involve various sectors and disciplines in its solution. Agencies or institutions with sufficient integrity, capability and enforcement power must carry out eradication efforts.

Inadequate Laws And Regulations Governing The Eradication Of Corruption

Existing laws and regulations governing the eradication of corruption have proven ineffective because many of the same contain loopholes. In terms of authentication, the System of Reversed Authentication (shifting burden of proof) has yet to be implemented in Indonesia. This has dogged efforts to eradicate corruption, particularly in cases involving large amounts of money and sophisticated processes. The fact that police protection for persons who report cases of corruption (whistle blowers) has yet to be guaranteed by the law leaving them vulnerable to retaliatory acts and threats has only made matters worse.

The Lack Of Public Participation In Eradication Efforts

Efforts to eradicate corruption require active public participation. Without the involvement of the public such efforts cannot succeed, as a society that is tolerant toward corruption will in turn breed more corruption. What is ironic is that on the one hand the public demands the

eradication of corruption, while on the other in order to expedite certain legal processes the public is willing to pay bribe money. This shows that even though the desire to eradicate corruption might be strong, society is still tolerant of certain corrupt practices. The lack of public support for eradication efforts is due to, among other things, the fact that society is still waiting to see the results of previous efforts and the prosecution of known guilty parties.

LOOKING AHEAD

A state administration that is free of corruption in all its forms is the express will of the people as corroborated by MPR Decree XI/1998. Unfortunately, it appears that the public in general doubts the credibility of the relevant government agencies, in particular the Prosecutor's Office, the Police and national judicial institutions. It is clear, based on numerous international models, that the large-scale elimination of corruption is a complicated task requiring a considerable amount of time and involving many parties, both domestic and international.

The eradication of corruption is most effectively conducted using the repressive and preventive approach. The repressive approach is meant to uphold justice - a demand of the international community - and to function as a deterrent. The preventive approach is useful in building a clean and effective system of governance both in the political and commercial arenas. In order to eliminate large-scale corruption, a strong commitment, especially from the executive, must be made and an impartial judiciary be put in place. A clear priority must also be identified and an effective implementing program formulated. During its implementation, the procedures and mechanism utilized in the eradication of corruption must be transparent.

The successful eradication of corruption requires that the agency or institution responsible be a credible one. Therefore, the establishment of a special independent agency is something of an urgency. As we are all aware, the Government has formed a preparatory team for the establishment of the Commission for the Eradication of the Criminal Act of Corruption, but the public must actively supervise the establishment of this commission to ensure that it does not repeat the mistakes of its predecessors. In order for a commission or agency to be able to function independently and effectively it must mobilize public participation through educational programs, public campaigns, citizens groups, and the media in addition to possessing the following

authority:

- 1) Investigation and prosecution.
- 2) Gathering data and information from domestic and international sources the security of which the state must guarantee.
- 3) Demanding information from any party (government and private) in the execution of its duties. In view of this, secrecy laws such as those pertaining to tax and banking secrecy must be declared void for this agency. The state must also guarantee the security of the relevant examining officers.
- 4) Reviewing, amending, terminating, or requesting the cancellation of existing contracts or contracts in the process of being drafted between domestic and offshore parties that clearly indicate the existence of corruption in order to reduce and prevent further state losses through negotiations with the relevant parties.
- 5) The authority described in point 3, must only be valid in the handling of cases related to state assets and finances as controlled by all government agencies, state owned enterprises and their subsidiaries, joint ventures between state enterprises and private companies, and private companies with rights and concessions linked to state properties or assets.
- 6) Assisting the government in drafting various rules, systems and procedures for the comprehensive prevention of corruption.
- 7) Out of court settlement if necessary to protect the interests of the national economy.

The findings of this agency (if required to be further processed in court) will be directly submitted to a Special Court to be established pursuant to this Law. In order to ensure credibility and authority, credible individuals (based on reputation), who possess the necessary skills and expertise should be appointed to manage the agency; and in order to guarantee its smooth operation; agency costs must be borne by the state.

THE CHALLENGES OF DECENTRALIZATION AND AUTONOMY

The Government and the Indonesian people jointly approved the implementation of regional autonomy pursuant to Law no. 22/1999 and Law no. 25/1999. The essence of regional autonomy is a commitment to justice, and fairness in the management and distribution of regional resources. Regional autonomy provides the facilities needed by regional governments to realize their optimal potential. Through autonomy it is expected that regional development will be bolstered in accordance with its economic, geographic and socio-cultural characteristics and potential. Such development will reduce the disparity between regions and prevent national disintegration. By focusing on the concept of decentralization, second level regions will become government spearheads, possessing much greater authority. In a number of regions, this delegation of authority will create the opportunity to realize goals long abandoned under the centralistic policies of the New Order.

Once the principle of regional autonomy is implemented and the activities of government shift to the second level region, the bureaucracy of the central government will be streamlined while the bureaucracy in the regencies or municipalities will expand. In connection with this, concerns have been raised over a possible brain drain from the capital to the regions. An exodus of bureaucrats from the capital to the regions is a certainty, and being as the regions already have their own candidates this may give rise to a surplus of personnel. Another impact of a shift in bureaucracy is a shift in corruption, an opinion voiced by Dr. I. Made Suwandi, one of the members of the drafting committee for Laws no. 22 & 25/1999²⁷. This concern is based on recent findings that have set the level of corruption in Regencies or Municipalities as equal to that of the Central Government. Marketing Research Indonesia (MRI) recently issued a report titled Indonesia's Corruption Monitor 2000, which included figures reflecting the level of corruption in Indonesia based on the perception of the general public. MRI conducted its research in the five urban centers of Jakarta, Bandung, Semarang, Surabaya, and Medan, and involved 1,429 male and female respondents over 15 years of age. Its findings were as follows²⁸:

²⁷ MEDIA TRANSPARANSI: March 1999, Giving Strength to the Regional Government, page 12.

²⁸ Marketing Research Indonesia: Indonesia's Corruption Monitor 2000.

Note: In both of the following charts, the Likert 0 to 10 scale is used to measure the rate of corruption where 0 means no corruption at all and 10 means very corrupt

NO.	AGENCIES	1999	2000
01	Central Bureaucracy	6.14	7.98
02	Regency/Municipal Bureaucracy	6.74	7.25
03	District Bureaucracy	7.80	6.80

MRI also classified public perception of the rate of corruption according to the city of origin of the respondents.

NO.	AGENCY	1999	2000
01	Jakarta	8.46	8.37
02	Bandung	8.50	8.77
03	Semarang	8.47	8.52
04	Surabaya	8.98	8.94
05	Medan	8.42	7.81

Based on the above contention it is not surprising that many parties are of the opinion that the institution of wider autonomy to second level regions must be concurrent with closer supervision of the regional executive and legislative bodies, because if not, the move towards greater regional autonomy will simply amount to a shift of corruption from the central government to the regional government.

The opinion of Andi Alfian Mallarangeng²⁹, regarding the link between decentralization and good governance is worth considering. He states, when we talk about good governance, there is another face to decentralization that must also be taken into account, namely democratic decen-

²⁹ The Indonesian Transparency Society: Building the Foundation for Good Governance During the Transitional Period, page 56, 2000.

tralization, and the decentralization of democracy. Democratic decentralization refers to a transparent decentralization process that is accountable and involves all relevant parties. Stakeholders within the decentralization area, as well as civil society groups and grassroots leadership, must be asked to participate in the planning and implementation thereof. The decentralization of democracy is yet to be witnessed in Indonesian due to the continuing dominance of the central government. The decentralization of authority, without the simultaneous decentralization of democracy will only serve to create municipal and village-level dictators.

Mr. Mallarangeng is of the view that if all segments of society realize the importance of the decentralization of democracy, in addition to the distribution of authority and appropriation of funding, the building process of good governance will be sustained. The implementation of good governance is not the sole responsibility of the central government, as the parameters of success lie within the provincial level. The creation of a civil society at the provincial level is a necessity that must not be ignored. NGOs must construct a strong structure rooted in the provinces, and public supervision of the process of government must be fortified.

PUBLIC CAMPAIGNS: THE STARTING POINT

Corruption greatly affects the Indonesian social and political structure as no sector left untouched. In fact, nearly every individual citizen is a proponent of corruption as either a perpetrator or a victim. The eradication of corruption is not solely a matter of putting the guilty behind bars, but also calls for the creation of a public resources management system that is transparent and open to public scrutiny.

With regard to corruption, none of us approve, but all of us when faced with institutionalized corruption allow ourselves to be victimized. What is needed is a national process of awareness that is sufficient to evoke the public rejection of corruption. In order to encourage the public to fight against corruption, society must be taught to view corruption as an enemy to be fought against. In schools students should be taught to ask their parents about the source of family finances. TV and radio stations should consistently broadcast that corruption directly harms public welfare.

Active public participation is paramount especially considering that supervisory and judicial agencies and personnel are not only few in number and of questionable quality, but also are themselves vulnerable to corruption. Were our judicial and supervisory agencies - perceived to be bulwarks against corruption - to engage in or perpetrate corrupt practices, then the role of the people will become our only hope in the removal of the canker of corruption.

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A Gloomy Picture of the Attempts to Eradicate Corruption:

Reflection of the policies, laws and institutions of
corruption management in Indonesia, 1969-2001

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INTRODUCTION

Background

On April 23, 2001 the daily newspaper KOMPAS ran a story about certain travel expenses accrued during a presidential overseas trip, for which no record of disbursement could be found. Such expenses are usually managed by the Presidential Secretariat. The Supreme Audit Agency, BPK, discovered that many of these expenses, such as the 'delegation' expenses for the President, the First Lady and other members of the official entourage, were unnecessary.

This illustration raises questions about the seriousness of the government's current efforts to eradicate collusion, corruption, and nepotism (KKN). One would be forgiven for thinking that Kepres existed merely to ensure the continuity of institutionalized corruption. Other outstanding corruption cases have been mishandled, too. It is a case of political cosmetics, with officials paying mere lip service to the issue of solving the corruption problem. Budgetary leaks and the lack of proper supervision reinforce the view that little is really being done to stamp out KKN. Can, in fact, KKN ever be brought under control in Indonesia?

There is no easy answer to this question, although it is a crucial one bearing in mind that the country is on the verge of collapse as a direct result of corruption. This paper attempts to provide the answer.

Firstly, it divides the KKN problem into three parts, namely policies, laws and institutions. The link between the three is explored, and each of them is analysed. The paper concludes with a number of recommendations based on the conclusions of the analysis.

This paper also looks at the three anti-corruption drives that the Government has embarked upon since 1969. It attempts to provide an answer to our key question from a social, legal and political point of view by exploring how corruption was handled during each of these three anti-corruption efforts, and it arrives at a comprehensive set of recommendations for the future management of corruption in Indonesia.

Principal Problem

The key question, "Can corruption, collusion and nepotism in this country be minimized?" is central to the entire discussion. However, three supplementary questions must first be posed:

1. What pattern of corruption management in Indonesia emerges from an analysis of policies, laws, and institutions?
2. Is there a link between the three aspects that can serve as the basis for a corruption eradication network? What exactly is the nature of the relationship between these aspects?
3. What happens when the problem is seen from a preventive (detective) and repressive point of view? Do policies, laws, and institutions work together as part of an overall corruption management system?

The answers to these three questions will help to establish the connection between them, and will serve as the basis for data analysis. A framework between the three areas can then be obtained, and the exact relationship between the three can be evaluated in each discussion. Subsequently, a number of policy-based legal and institutional recommendations can be made.

Methodology

This paper uses a qualitative research method focusing on two approaches: socio-political and normative-judicial.² The socio-political approach is used when searching for data on institutions, state policy and legal matters. The normative-judicial approach is used to scrutinise legislation pertaining to the eradication of corruption.³

For the purposes of this paper, policy is defined as the strategic plan of an institution

² See John W. Creswell, *Research Design, Qualitative & Quantitative Approaches*, (London: SAGE Publications, 1994), Page 8-10. Bdk. W. Lawrence Neuman, *Social Research Methods, Qualitative and Quantitative Approaches*, 3rd edition, (Boston: Allyn and Bacon), Page 418 - 424.

³ Law No. 3/ 1971 concerning The Criminal Act of Corruption and Law No. 31/1999 concerning the Eradication of the Criminal Act of Corruption, and related laws such as Law No. 28/1999 concerning a KKN-Free State Administration. Bdk. Peter Jan Honigsberg, *Legal Research & Paper*, Gilbert Law Summaries, Sixth Edition, 1992 - 93, Page 39 - 44.

which is officially authorised to take action against corruption.⁴ The State Policy Guidelines (GBHN) and its derivatives up to the executive policy level (policies that are applied as guidance for the implementation of state administration) govern the review and scrutiny of corruption policy. During the Soeharto era, the policy comprised the GBHN and the Five-Year Development Plan (Pelita). During Habibie's time, the policy comprised only the GBHN. During President Abdurrahman Wahid's era, the policy comprised the GBHN and the National Development Program (Propenas). This included a legal policy matrix describing operational programs such as KKN eradication.

Legal in this paper is defined as pertaining to the law.⁵ Hence, when we refer to the "law" we mean regulations created by the lawmakers, namely the legislative and executive body. The main focus of this paper will be Law No. 3/1971, Law No. 31/1999 and Law No. 28/1999, which deal specifically with corruption. The institutions or agencies referred to in this paper - Development Finance Controller (BPKP), State Officials Auditing Commission (KPKPN) and so on - are all formal state institutions or agencies. The list does not include the increasing number of formal and informal institutions, such as non-governmental organisations or public organisations in general.

Data on these has been drawn from official state documents, such as state gazettes, which report on new laws passed, and the media. This data was then used to produce an analysis of the relationship between the three by questioning their implications for the prevention, detection and eradication of corruption⁶. Finally, the paper aims to link the three

⁴ Bdk. Yahya.A. Muhaimin, *Bisnis dan Politik: Kebijaksanaan Ekonomi Indonesia 1950 – 1980*, (Jakarta: LP3ES, 1991), Page 12 – 14.

⁵ Indonesia upholds the legalistic principle. This principle is interpreted as the legislatures. The concrete derivatives of this principle can be seen in the Indonesian Criminal Code (KUHP) Article 1 paragraph (1).

⁶ For example in regard to policy: What policies are issued to eradicate corruption? Have those policies been prioritised? Do they possess clear implications at the operational level? With respect to the law: what are the existing laws on corruption? What are the strong and weak points of those laws? Do the laws clearly define the results of their enforcement both institutionally and operationally? With respect to institutions: what formal permanent or ad hoc institutions have been formed to eradicate corruption (preventive or repressive)? What are the function and authority of these institutions in the entire structure of institutional corruption eradication? Does the said institution have operational functions to implement its duties?

strands in a comprehensive frame to map out the problem, identify patterns, and ultimately assess the prospect of eradicating corruption in Indonesia.

FINDINGS

Non-Repressive Policies

This section describes government policy during three distinct administrative periods. During the Soeharto era, policy centred on the GBHN, which included a Five-Year Development Plan (Pelita). During the Habibie era, reform was accomplished via decrees passed by the People's Consultative Assembly (MPR). During Abdurrahman Wahid's presidency, the GBHN was separated from Propenas and the Annual Development Plan (Repeta) (which contains the policy matrix). These three different approaches to general policy-making are the focus of the discussion; however, the emphasis will be on the policies introduced by Abdurrahman Wahid's administration.

Before we proceed, it is important to note that the aim of the ongoing effort to eradicate KKN is the achievement of clean and good governance. These principles have not been addressed by the Constitution of the Republic of Indonesia. Although the new Constitution regulates the relationship as well as the authorities of the state administrators, it does not regulate the principles of state governance. The Constitution is so tainted by integralistic thinking that it has not recognized the principle of good and clean governance, which assumes the existence of a checks and balances mechanism at an equal or egalitarian level between fellow state administrators. Hence, the mechanism for managing the continuous prevention and detection of KKN has not received serious attention. The management of KKN is often merely reactive in nature. Repressive management has not been given its rightful role.

Aside from the normative (subjective dimension) factor, we should remember that a new policy will not be implemented in a social and political vacuum. It will only emerge, grow and interact in a dialectical manner with the social-political structure that supports it. This paper seeks to balance the analysis surrounding each respective dimension, such as the state's disposition, obligation and limitation on the economic order, and other structural factors that

influence the behavioral tendencies of the state administrators. Nevertheless, we will close our discussion by concentrating more on the legal system, with its tendency to lean towards normative points of view and mechanical-procedural problems.

The Soeharto Era: Orde Baru Law and Order

When Soeharto first came to power, the eradication of corruption did not receive serious attention. Economic recovery and national defense and security programs were considered the major issues. However, as they continued to stagger under their economic burden, the people began to voice concerns about the condition of the state, as it was gradually eaten away by increasingly pervasive corruption. They began to demand an immediate settlement to the corruption problem.⁷ In order to defuse these demands, Soeharto created Law No. 3/1971 and a number of ad hoc institutions to eradicate corruption.⁸ It was a response that smacked of self-defence, a safety valve to stifle the harsh reaction of the people. The main agenda of the Orde Baru, namely political consolidation, could then be addressed.

During the 1980s, after the political consolidation program had been concluded, the Soeharto administration began officially to formalize and institutionalize the eradication of corruption. At the policy, legal and institutional level a formal attempt to make a stand against corruption began to emerge.⁹ Aside from channeling and anticipating the people's aspirations, this was also intended as an internal control within the framework of continuous consolidation for the sake of the Orde Baru's stability. In this period, the movement began to weaken, as the people became more apathetic towards the corruption problem. They were somewhat mollified by Orde Baru's economic strategy, which had not only benefitted hugely from the oil boom, but has also taken steps to

⁷ The students and youth were the driving force behind the people's movement. See INDEF, *Corruption in Indonesia* (no year).

⁸ Soeharto formed three ad hoc commissions, several of which succeeded in uncovering corrupt acts. However, no follow-up actions have been taken.

⁹ In the order of the policies of the state, the Pelita III program is seen to have included the eradication of corruption as a program. At the institutional level, there were internal bodies for supervision of financial and development matters such as BPKP, and internal and external agencies such as the Directorate General of PKN, Irjenbang and so forth. At the same time, regulations on employments as well as financial and development supervision began to emerge.

apply a structured security approach operated by the Orde Baru Government.¹⁰

The fall in oil prices and the rise in deregulation, however, brought the good times to an abrupt halt. Corruption flourished, and the military set about allying itself with an increasing movement into various sectors such as the economic sector (in cooperation with major businessmen) despite the fact that they were not competent to perform the job. This, then, was the setting for the ensuing rise in collusion between the military and many major businessmen.¹¹

The situation persisted. The absolute control held by the government over the people in the personification of the President became stronger through the application of a security approach. Few policy changes were made. Political order, lumbering bureaucracy and ideology became the order of the day. Collusion between the military, always the key to a flourishing government, led inexorably to nepotism within the family and close relatives of the President. This situation persisted throughout the 1980s and 1990s.¹² In mid-1997, Indonesia was beset by an economic and political crisis brought about by exchange rates, which forced Soeharto to resign his post of thirty years. There is no doubt that corruption, collusion and nepotism played a significant role in bringing about his downfall.

The Habibie Era: Regulations Rule

Economic problems were the catalyst that brought about President Soeharto's downfall. A high-cost economy, leakages of state funds in most departments, and the errant ways of individual state officials from the general principles of proper governance (AUPB), worked together effectively to topple the regime. Habibie both inherited and exploited this problem. 'Reform', including the eradication of KKN, became the rallying cry for the new administration. This is evidenced in the Principles of Development Reform Within the Framework of Rescuing and Nor-

¹⁰ See Jamie Mackie and Andrew MacIntyre, Politics, in Hal Hill, ed., *Indonesia's Orde Baru*, (New South Wales: Allen & Unwin, 1994), Page 9 - 19.

¹¹ *Ibid.*, and bdk. Budi Susanto & Made Tony Supriatma, *ABRI Siasat Kebudayaan 1945 - 1995*, (Yogyakarta: Publisher Kanisius dan Lembaga Studi Realino, 1995), Page 33 - 54.

¹² The BPPC case involving Soeharto's favorite son, Tommy, is still fresh in people's minds. (Mackie & MacIntyre, *op. cit.*, Page 9).

malising the Nation's Life As a National Guidance ("Principles of Reform"), published during Habibie's rule.

However, despite the fact that the Habibie administration set the highest priority on the eradication of KKN, no serious effort to bring offenders to justice was made during his presidency. Instead, KKN was sidelined as a legislative problem, as shown by the passing of Law No. 28/1999 and Law No. 31/1999.¹⁴

At the institutional level, Habibie's administration created a number of ad hoc institutions designed to prepare an intensive and continuous program for the reform and eradication of KKN.¹⁵ These institutions, however, failed to perform, and no significant progress was made.

The Habibie administration can be credited with having exposed the KKN problem and made it an ongoing concern. However, corruption persisted, as formal actions such as the establishment of laws and institutions did little to eradicate corruption.¹⁶

The Wahid Era: Policy Irregularity

Abdurrahman Wahid ("Gus Dur") achieved the Presidency via a long and rounabout road. The fact that he held the title at all is in itself rather strange, since his party had not won the 1999 General Election. It was in fact the result of a compromise between the various key players and political factions. Wahid inherited a compound problem from his two predecessors. From Soeharto he inherited a dilapidated political system and a bloated bureaucracy, with its artificial and reactive approach to corruption. From Habibie, he inherited an pile of legislation and the seeds of disintegration.

¹⁴ It should be noted that during Habibie's administration a large number of laws were passed. Hence Law No. 28/1999 and Law No. 31/1999 were not exceptional matters in the world of legislatures. The preparation of corruption laws was only a small part of a grand program of legislation by the Government.

¹⁵ Including the National Team for Reformation Towards a Civil Society (Tim Nasional Reformasi Menuju Masyarakat Madani/TNR3M), The Board of Security Enforcement and Legal System (Dewan Penegak Keamanan dan Sistem Hukum/DPKSH), and the Supervisory and Control Team of the Reformation (Tim Pengawas dan Pengendali Reformasi/TPPR).

Wahid also inherited Law No. 28/1999 and Law No. 31/1999, both of which are quite controversial.¹⁷ His administration faced a great problem that should have been settled efficiently and effectively. However, the team, which was oversized owing to the need to accommodate everyone in the line-up, was unable to fulfill the task. Day after day it became more apparent that the government could not operate in a rational, logical and healthy manner. The problem, which had been considered latent under the old regime, was now out in the open, and began to spiral out of control.

KKN policy during the Gus Dur era can be seen in the GBHN and Propenas. In the study of law and politics¹⁸, the GBHN has provided an instruction for the complete eradication of KKN and given shape to a KKN-free government. The GBHN became operational under the National Development Program, which was formalized in Law No. 25/2000 (Propenas). Propenas is further detailed in the Annual Development Plan (Repeta), which was incorporated into the State Income and Expense Budget (APBN) determined by the Government and the House of Representatives.

In the political arena, Propenas emphasized discussions on national defense and security. Indeed, eradication of KKN is mentioned explicitly as well as implicitly in several places,¹⁹

¹⁶ When Habibie replaced Soeharto, he had no choice but to accommodate the people's pressure to eradicate KKN. But the government attempted to moderate the pressure by diverting the issue of corruption towards the issue of the ineffectiveness of the existing corruption laws. Some people who are aware that corruption in Indonesia is a systematic, even structural, crime were not satisfied with Habibie's approach. The issue that arose among the people was that Habibie's government along with the traditional institutions assigned to eradicate corruption were ineffective. Two arguments were put forward: (i) Habibie's government was part of the old order and was not only infected, but also frequently was the mainstay of systematic corruption; and (ii) traditional institutions whose primary aim was to eradicate corruption were not only ineffective, but most of them were shown to be infected with chronic corrupt behaviour.

¹⁷ See the discussion on law in this paper..

¹⁸ Since the discussion on KKN in GBHN focuses on the legal and political arenas, its operation within Propenas also exists in the same two arenas.

¹⁹ Section D concerns Problem and Challenges; Section F no. 4 concerns the Democracy Infrastructure Development Program.

where corruption is indeed seen as a problem. However, the problem persists. A detailed operational policy strategy has yet to emerge.²¹

In the legal arena, KKN has become a priority, as indeed have human rights issues. Nevertheless the settlement plan remains limited to prevention and detection. The procedural aspects for repressive law did not receive a lot of attention.²² Also, considering that the KKN problem has reach a critical point, no special efforts to eradicate corruption can be seen. Similar to the discussion in the political field, the discussion of KKN matters in the legal field are also limited, compared to other matters.²³

It can be seen that during the era of the Gus Dur's administration, the government (including the People's Consultative Assembly and the House of Representatives) have not been serious and, indeed, are confused about how to handle the KKN problem. This lack of seriousness and confusion can clearly be seen in the irregularity of the policy levels that have been established (the GBHN, Propenas and Repeta). The problem of eradicating KKN is only seen from the limited basis of a preventive and detective dimension, while the dimension of repression has not been sufficiently used.²⁴ An operational strategy dealing with repression did not receive sufficient attention in the Gus Dur administration's policies.

Law: Crime vs. Indiscipline

This part looks at the law as it relates to corruption. There are essentially two kinds of legislation: preventive and repressive. Preventative legislation is designed to anticipate and

²¹ This is shown clearly when compared with the defense and security problem, which provides a detailed description of its strategy. For example, in discussions about the Indonesian Army (TNI) and the Police Force (POLRI) and their weaponry, the KKN problem was not discussed in detail, as was the defense and security issue. This can be seen from the introduction section of the Propenas that states "...this chapter concentrates more on the discussion of the political system and national security ..."

²² For example, in the action plan matrix in the Repeta, no mention was made of the establishment of the Commission for the Eradication of Corruption (Komisi Pemberantasan Anti Korupsi) under Law No. 31/1999.

²³ This is seen from the detailed discussion of Human Rights abuses in Aceh, Maluku, Tanjung Priok cases, and expediting the hearings of suspected violators.

²⁴ See also the ensuing discussion on laws and institutions.

prevent corruption. It involves a certain amount of detective work. Examples of preventative legislation include the regulations on employment and financial supervision (passed before Gus Dur became President), and the laws designed to ensure a corruption-free state administration, which were passed during the Habibie administration. Both of these remain in force. Repressive legislation, on the other hand, directly regulates the definition of corruption, and the method of prosecution.

Repressive: The Perpetual Scapegoat

Repressive legislation includes Law No. 3/1971 and its replacement, Law No. 31/1999, both of which deal with corruption. Since the latter is still new, both laws will be scrutinized. The law is generally satisfactory, with sufficiently heavy sanctions imposed on the guilty party, and facilitation for law enforcers in areas such as giving and presenting evidence. However, a number of technical problems remain, including:

Unclear Definitions of Corruption

What is the real definition of corruption? Does it include bribery, 'informal' collections, and unauthorised mark-ups, for instance? Opinions vary greatly, and there is as yet no clear definition in universal use.

Law No. 3/1971 and Law No. 31/1999 are of no help to us in this matter, although they do contain a lengthy list of practices considered to be corrupt, with different sanctions for each.²⁵ Thus, despite the absence of a specific definition, the list of 'corrupt' offenses is enough to snare a wide variety of criminals.

²⁵ The offenses classified as corruption offenses include: (i) acts of enriching one's self or other parties in an illegal manner (Article 2 of Law No. 31/1999); (ii) deliberate act of benefiting oneself or others through misuse of authority, opportunities and facilities provided as part of one's position and responsibilities (Article 3 of Law No. 31/1999); (iii) the act of bribery or the giving of presents, gifts or inducements because of one's position (Articles 418, 419, 420, 423 of the Civil Code/KUHP); (iv) fraudulent acts that threaten people's safety or the security of the state (Article 387 and 388 of the Civil Code/KUHP); (v) embezzlement of money or commercial papers (Article 415 of the Civil Code/KUHP); and (vi) deliberate falsification of books/lists examined, or damage caused to them (Article 416 of the Civil Code/KUHP and 417 of the Civil Code/KUHP).

Aside from Law No. 31/1999, two other laws deal with corrupt practices: Law No. 11/1980 relating to Bribery, and Law No. 28/1999, which introduces two new offences, collusion and nepotism. These laws complement the other corruption laws, as they encompasses anyone who gives or receives bribes, defining 'bribery' as a criminal act that is detrimental to the public interest.²⁶

Problems of Evidence

Difficulties in getting evidence are always one of the reasons that it is difficult to prosecute those suspected of corruption.²⁷ There are two major problems: evidencing state loss, and the system of reverse evidencing.

- State Loss

Law No. 3/1971 is often misinterpreted as implying that in every corruption case the state in some way suffers a loss.²⁸ This is due to the assumption that corruption is necessarily a material offense.²⁹ As a result, the Attorney General's Office often trips over itself trying to prove the existence of state financial loss.³⁰

In reality, only two of the 17 offenses classified as corruption under Law No. 3/1971 contain elements of state loss.³¹ Theoretically, if state loss is difficult to prove, the suspect can be

²⁶ Compare Article 2 and 3 of Law No. 11/1980 with Article 3 of Law No. 31/1999 and Article 209 and 210 of the Civil Code (KUHP).

²⁷ BPKP, National Strategy on the Eradication of National Corruption, March Edition, (Jakarta: BPKP, 1999), Page 388.

²⁸ *Ibid.*, Page 141, 363. See also Mansur Kartayasa, Catatan Hukum: UU Eradication of the criminal act of corruption dan Prospeknya, Kompas, 8 November 1999.

²⁹ A doctrine-based formal crime is said to have taken place when an action fulfills all the elements of the offense. On the other hand, material offenses shall have taken place if it is proven that consequences exist (in this matter, state's loss). See Djoko Yuwono, Korupsi, no year.

³⁰ Mansur, *loc. cit.* According to the Attorney General's Office, this problem derives from the misperception among the judges that each corruption offence must contain an element of state loss.

³¹ Article 1 paragraph (1) point a and b of Law No. 3/1971. Fifteen other offenses are included in Article 1 paragraph (1) points c, d and e, and Article 32. See Andi Hamzah, Attorney General Sebenarnya Bisa Menangkap Seorang Minister, Jurnal Transparansi, 17 February 2000.

charged with another offense. However, those investigating corruption cases are frequently blinkered into fixating too much on the idea of state loss.³²

Law No. 31/1999 attempts to rectify this by stating firmly that offenses classified as corruption are: (a) formal offenses which require sufficient proof that an act of personal or private enrichment has taken place; and (b) offenses that may have a detrimental effect on state finances.³³ This amendment should clear up any misunderstanding.

- The Burden of Reverse Evidencing

The reverse evidencing system has actually been discussed since the 1970's.³⁴ Reverse evidencing obligates the defendant to prove that he did not commit the criminal act with which he is being charged. The Indonesian Code of Criminal Procedure generally does not accommodate this principle; it is the Attorney General who has the obligation to prove that the defendant has committed an illegal act as charged. In reality, a simple version of the reverse evidencing principle is already contained in Law No. 3/1971, although it is not described in these terms.³⁵ Nevertheless, law enforcers and the people still consider it insufficient.

Law No. 31/1999 has given rise to a spate of public discourse about reverse evidencing. The law attempts to accommodate public demands by adopting the principle of 'reverse evidencing on a limited or equal basis'.³⁶ The defendant has the opportunity to prove himself innocent of corruption. Should the evidencing work, then it shall be seen as beneficial to the defendant (Article 37 paragraphs (1) and (2)). On the other hand, the defendant is obliged to provide information about his assets and the assets of the related parties (Article 37 paragraph (3)). If he cannot prove that his assets are in line with his income, then evidencing may be used to support the case against him (Article 37 paragraph (4)). Nevertheless, these provisions do not eliminate

³² Mansur. loc cit.

³³ Articles 2 and 3, along with its Elucidations thereof.

³⁴ BPKP, op. cit., Page 321-324.

³⁵ Article 1 paragraph (1) states that 'the defendant shall be obligated to provide information on his assets, and if this is not in accordance with his/her income or the enrichment, it shall be deemed to have affirmed from the other information that the defendant has committed the criminal act of corruption'. See Andi Andojo Soetjipto, RUU Pemberantasan Tindak Pidana Korupsi, a paper that was presented in the Panel Discussion of the Indonesian Corruption Watch, Jakarta, 19 April 1999, page 3.

³⁶ See the elucidation of Article 37 of Law No. 31/1999.

the obligations of the Prosecutor to continue to try to prove the charges (Article 37 paragraph (5)).

Law No. 31/1999 only half-heartedly adopts the reverse evidencing system owing to the fact that, as mentioned above, a limited system was already in place.³⁷ However, pressure to accommodate the reverse evidencing system is resurfacing. The Department of Justice and Human Rights is currently preparing an Amendment to Law No. 31/1999 that discusses the issue. In the concept of March 2001, the principle of limited reverse evidencing will be erased and replaced with pure reverse evidencing for civil servants and state administrators.

Investigation Authority

One of the main problems of the Indonesian criminal justice system is its lack of control.³⁸ Exactly who should have the authority for criminal case investigation has become a source of dispute between the Attorney General's Office and the Police. The Code of Criminal Procedure (KUHP) shifted investigative power from the Attorney General's office³⁹ to the Police.⁴⁰ This dispute resurfaced with the enactment of the law relating to the Attorney General's office⁴¹ and intensified following the enactment of laws relating to the Police force, affirming that the authority for criminal investigation is granted to the latter in accordance with the Code of Criminal Procedure (KUHP) and other rules and regulations.

³⁷ Note that it is only applicable to the offences under Article 1 paragraph (1) point a., whereas Law UU No. 31/1999 accommodates the entire offences.

³⁸ A saying is circulating within the circle of observers of the Indonesian law that the Indonesian justice system is like a 'plane without a pilot'.

³⁹ According to the Indonesian Renewed Regulation (RIB), this authority lies with the Attorney General's Office. See Topo Santoso, *Polisi dan Jaksa dalam Sistem Peradilan Pidana Indonesia*, no year.

⁴⁰ See Article 6 of the Criminal Code of Procedure (KUHP).

⁴¹ Article 27 paragraph (1) point d and the General Elucidation of Law No. 5/1991 concerning the Attorney General's Office grants the authority to investigate on a limited basis to the Attorney General's Office, namely to conduct additional examination before delivering the case to the court, of which implementation shall be coordinated with the investigators.' Furthermore, Article 29 and Article 32 point b grants the authority to coordinate the handling of certain criminal cases (including corruption) with the relevant agency to the Attorney General in accordance with the law of which implementation will be determined by the President.

Law No. 3/1971 does not specify who possesses the authority to investigate corruption cases, so the provisions of the Code of Criminal Procedure (KUHAP) prevail.⁴² The Attorney General is granted the authority to coordinate investigations into corruption cases.⁴³ KUHAP indirectly confirms this special regulation. In its Transitory Rule, KUHAP continues to refer possible cases for investigation to the Attorney General's office for special crimes, providing that the matters have been regulated under the law and that the law has not been modified or replaced.⁴⁴

Law No. 3/1971, then, does not grant exclusive rights to the Attorney General's office, neither does it prohibit the police force from conducting the investigation. However, the Attorney General's office believes that the authority to investigate special crimes (including corruption) lies with itself.⁴⁵ This dispute has intensified to such a point that the two sides now vie with one another over cases.⁴⁶ Many efforts have been expended in order to mediate this dispute, notably the Mahkejapol Forum⁴⁷, which resulted in a consensus that the Police Force shall have the same investigative authority as the Attorney General's office for handling corruption cases.⁴⁸ Nevertheless, the dispute continued to persist.

⁴² Article 3 of Law No. 31/1971 stated that 'Investigation and prosecution of the criminal act of corruption shall be carried out according to the prevailing regulation, to the extent it is not stipulated otherwise under this law.'

⁴³ Article 26 of Law No. 3/1971 and its elucidation.

⁴⁴ Transitory Rules in Article 284 of paragraph (2) that is further elaborated under Article 17 of the Government Regulation No. 27/1983 concerning the Implementation of the Code of Criminal Procedure.

⁴⁵ Development Finance Controller (BPKP), *op. cit.*, Page 387-388.

⁴⁶ Kompas 2 January 1998, reported the dispute on the investigation of suspicions of corruption by the former Director of Bank Indonesia. See also INDEF, *op. cit.*, Page 70.

⁴⁷ Informal forum between the elements of law enforcement comprising the Supreme Court of Justice, Department of Justice, the Attorney General's Office and the Police Force.

⁴⁸ Indriyanto Seno Adji, *Catatan Hukum: Wewenang Penyidikan Bersama Polisi-Jaksa*, Kompas, 9 February 1998. However, see also Kompas, 25 February 1998 quoting the Chief of Police who stated that the consensus on the investigation of the criminal act of corruption is not yet final.

Law No. 31/1999 was designed settle this dispute; however, it does not contain firm provisions to do so.⁴⁹ The Attorney General is authorised to coordinate the investigation as part of a joint team only, and his authority is limited to cases that are 'difficult to prove'.⁵⁰

No Rules for the Transition Period

One major weakness of Law No. 31/1999 is that it contains no provisions for the period before its enactment (in August 1999). We now have a legal loophole favouring the perpetrators of corrupt acts committed before August 1999. On one hand, Law No. 31/1999 does not apply retroactively; on the other hand, its predecessor has been revoked. Hence, there are no legal provisions that can be applied to corruption cases before 1999.⁵¹ Some parties, especially the law's creators, have refuted this, arguing that Law No. 31/1999 can not be separated from the principles of criminal law, which will show that in fact no legal vacuum has occurred.⁵²

Criminal law recognizes the doctrine of *lex temporis delicti*, which holds that the applicable law is the one that was in force at the time the alleged offense was committed. Criminal law also holds that in the event of a change to the law, the judge must then refer to the law that is most beneficial to the defendant. This issue remains unresolved: since Law No. 31/1999 was passed, not one corruption case has been submitted. It is difficult to predict how the court will handle it when a case finally does come to trial.

It is notoriously difficult to arrest those involved in corruption, not least because of political factors. Improprieties during the preparation of Law No. 31/1999 (established, ironically enough,

⁴⁹ Article 26 of Law No. 31/1999 stated that 'Investigation, prosecution, examination, in the court hearing against the criminal act of corruption, is carried out pursuant to the applying code of criminal procedure, unless stated otherwise under this law'.

⁵⁰ Article 27 of Law No. 31/1999. According to its Elucidations thereof, "difficult evidencing" includes 'the criminal act of corruption in the field of banking, taxation, capital market, commerce and industry, future commodity trading or the monetary and trading field that are: (a) sectoral in nature; (b) carried out by means of sophisticated technology; or (c) performed by the suspect/defendant who holds a status as a State Administrator as determined under Law No. 28/1999'.

⁵¹ Kompas, UU No. 31/1999 Konspirasi untuk Lindungi Korupsi, 13 May 2000; Tersangka Korupsi Tetap Dapat Dijerat UU Lama, 15 Mei 2000; UU Nomor 31/1999 Mbingungkan, 23 May 2000.

⁵² Kompas, Tersangka Korupsi Tetap Dapat Dijerat UU Lama, 15 May 2000

to increase efficiency in the fight against corruption) only serve to highlight this fact. A solution, however, is close to being found. The Government and the House of Representatives have agreed to modify Law No. 31/1999 by adding a clause that addresses the transition period. At the time of writing, the clause is being prepared by the Government.⁵³

Preventive: Reductionist Potential

Prior to 1999, the legal framework for the prevention of corruption focused on the matter of financial management and supervision. In that year, a special law was passed with the aim of institutionalising the prevention of corruption and establishing an implementing agency.

Financial and Government Supervision

During the Soeharto era, corruption laws were preventive in nature, and were governed by Presidential Instruction (Inpres) No. 15/1983 concerning Supervision Implementation. The decree describes the functions of the Development Finance Controller (BPKP), whose establishment was affirmed by Presidential Instruction Nos. 31/1983 and 32/1983 concerning the Position, Principle Duty, Function and Working Order of the Coordinating Minister of Economy, Finance, Industry and Development Supervision. Presidential Decree No. 15/1983 governed the implementation of supervision carried out by the Development Finance Controller (BPKP), Inspectorate General of the Departement (whose existence is determined by Presidential Decree (Keppres) No. 44/1974), other supervisory NGOs/Government Agencies, the Inspectorate for Provincial Areas and the Inspectorate for Municipal Areas.

This Presidential Instruction also determines the type of supervision to be carried out. Direct superiors carry out supervision of responsibilities and functions of their subordinates in government agencies. Functional supervision is carried out by an officer or organisational unit assigned to a limited supervisory role. An Inspector General of Development is appointed directly by the President and Vice President (determined pursuant to Presidential Decree No. 25/1974) and entrusted to supervise sectoral development projects, village projects authorised by Presidential Instruction, and regional projects.

⁵³ Kompas, *The Government Tak Keberatan UU No. 31/1999 Diamandemen*, 19 May 2000.

Financial and development supervision is complex. There is an apparent overlap in functions between the Supreme Audit Agency (BPK), Development Finance Controller (BPKP) and the authorized supervisory agencies. In addition, follow-up supervision is somewhat confused, especially the issue of authority. Presidential Instruction No. 15/1983 Article 19 paragraph (1) mentions that the Chairman of the Supreme Audit Agency (BPKP) in cooperation with the Chief of Police (Kapolri) and/or the Attorney General shall be called upon to settle matters pertaining to criminal acts. It is therefore unclear whether agency corruption cases should be reported to the police or the Attorney General's office.

Another issue requiring further scrutiny is the ambiguity of the Presidential Instruction relating to the sanctions to be imposed on government officials who are found to be corrupt. Should sanctions be of an administrative, civil or criminal nature? Article 16 paragraph (3) of Presidential Instruction No. 15/1983 gives three options.⁵⁵

Employment

Civil servants (including members of the Indonesian Army/TNI) are regulated under Law No. 8 /1974 concerning the Principal Rules of Employment. This law contains a reasonably comprehensive set of preventive measures against corruption.⁵⁶ Supervision and punishment are the responsibility of an employee's superior.⁵⁷ It is important to observe, however, that the

⁵⁵ Another example is the Presidential Decree (Keppres) No. 14 A of 1980 that is later perfected by the Presidential Decree (Keppres) No. 18 of 1981, that contains a number of prohibitions, among others receiving of commission or other gifts, collection other than the State Budget (APBN) and the assignment of goods owned by the state. See Andi Hamzah, *Korupsi dalam Pengelolaan Proyek Pembangunan*, (Jakarta: CV Akademika Pressindo, 1984), Page 32-34. The sanction for violating this prohibition is administrative sanction.

⁵⁶ Among others, prohibition to misuse the State's authorities, goods or money, to assign the State's goods/commercial paper/money, commit acts to enrich one's self that directly or indirectly possess detrimental effects to the State, receives gifts pertaining to their positions or jobs, acting as the middleman in obtaining jobs in their positions and carries out informal collections. See Article 29 of Law No. 8 of 1974 concerning the Principles of Employment in conjunction with Article 3 paragraph (1) of the Government Regulation No. 30 of 1980 concerning Disciplinary Rules for Civil Servants.

⁵⁷ See Law No. 8 of 1974 and Article 7 and 8 of the Government Regulation No. 30 of 1980.

sanctions for violating the rules and prohibitions are merely disciplinary actions taken by the superior, 'without prejudice to the provisions of criminal law'.⁵⁸ In fact, some of these violations are clearly corruption offences.⁵⁹

What we have here is a reduction of the provisions of criminal law. This situation makes it legitimate for the party responsible for the agency concerned to treat violations that are in fact criminal offenses - including corruption - as an internal matter. Consequently, the violations and the violator are not processed under criminal law as acts of corruption, and mere administrative sanctions are imposed on them.⁶⁰ In a state where corruption is such an inherent part of the system, it is difficult to expect that the perpetrators' superiors, who are part of the same system, will take severe disciplinary action towards the civil servants.

Wealth Report

Law No. 28/1999 is intended as a derivative product of the People's Consultative Assembly's Decree (TAP MPR) No. XI/MPR/1998 relating to a 'KKN-free' state administration.⁶¹ As a way of preventing collusion, corruption and nepotisms, the said TAP MPR obligates state administrators to declare their wealth and express their willingness to submit to a wealth audit before and after holding an official position. However, the law possesses serious weaknesses in its formulation, and has yet to become operational.

The original purpose of Law No. 28/1999 was to cause certain general principles to be adopted as operational norms. What the law in fact did was to throw up even more general principles, most of which have been included in the General Principles of Good Governance

⁵⁸ Article 29 of Law No. 8 of 1974 in conjunction with Article 6-8 of the Governmental Regulation No. 30/1980.

⁵⁹ Andi Hamzah, *op. cit.*, Page 34.

⁶⁰ For example, on mid February 2001, three prosecutors were discovered to have attempted to bribe a Pertamina employee and were given disciplinary actions without being processed under the criminal law (www.hukumonline.com, Tiga Jaksa yang Dikenakan Sanksi Terbukti Terlibat Suap, 2 March 2001).

⁶¹ The said Decree of the People's Consultative Assembly (TAP MPR) among others stated that "...state administrators must be honest, fair ... and able to free themselves from corruption, collusion and nepotism practices" (Article 2 paragraph (2)).

(AUPB). Furthermore, the provisions on the rights of state administrators and the relationship between state administrators are irrelevant, and should have been included within the scope of other laws.⁶² Several of the definitions provided appear limited and unclear when compared to the existing definitions.⁶³

The essence of Law No. 28/1999 lies in the obligation of state administrators to declare and announce their assets and their willingness to be audited, and the provisions on the State Officials' Wealth Auditing Commission (KPKPN). The extent of the wealth that must be declared and the procedures for doing so are spelled out under a separate government regulation. KPKPN is given the authority to carry out audits and perform investigations up to a certain extent, with the specific aim of preventing corruption, collusion and nepotism.

INSTITUTIONS: LEGENDS OF THE FALL....

This section looks at the formal institutions that are involved in the management of both the preventive and repressive aspects of corruption. It describes the functions, duties, authorizations, and positions of each institution in the ongoing fight to eradicate corruption.

Repressive: The Story of Three Dirty Brooms and the Broom(less) Handle

Three main institutions are responsible for anti-corruption law enforcement in Indonesia: the Attorney General's office (Kejaksaan), the National Police Force (Polri), and the law courts. Each of these institutions will be discussed separately as they have their own characteristics and dynamics, and so cannot be taken together. There is also a new institution, the Joint Team for the Eradication of Corruption (TGTPK) that will be likewise be analyzed separately, as its formation and working dynamics are of particular interest.

⁶² Indonesian Transparency Society (MTI), *Kajian RUU tentang Penyelenggaraan Negara yang Bersih dan Bebas dari KKN*, (Jakarta: 1999). This provision should have been regulated under a legislature with the appropriate scope, for example concerning state officials or the ethical code on state administration.

⁶³ MTI, *op. cit.* The definition of state administration used in the Bill of Law is not complete compared to the definition known academically or publicly. Whereas the definition for collusion that is more comprehensive, although unclear, is stated in the Government Regulation No. 30/1980.

The Attorney General's Office

There are two sub-institutions within the Attorney General's Office that have special duties and authorities to handle corruption cases. The Junior Attorney General for Intelligence, is responsible for intelligence gathering, particularly within the Directorate of Economy and Finance, on matters such as investment, production, distribution, finance, banking, white-collar crime and corruption. The Junior Attorney General for Special Crimes is authorized to investigate, examine and prosecute in corruption cases.

The track record of the Attorney General's office⁶⁴ in enforcing the corruption laws shows that it is (a) ineffective, and (b) institutionally riddled with corruption. Very little investigative work, examination or prosecutions have been carried out by the Attorney General's office. What is more, on the rare occasion that cases do succeeded in reaching the courts, most defendants are released, owing in part to the weakness of the case for the Prosecution. The results of the internal evaluations of the Attorney General's office confirm this.⁶⁵ In 2000, 474 cases were handled by Attorney General's office. Of these, only 126 were satisfactorily resolved. In the same year, only 130 of 566 corruption cases investigated were successfully solved. Theses figures translate into a success rate of 26.58% at the investigation level, and a mere 22.96% at the examination level. In the meantime, an audit of the Attorney General office's working program reported state losses from corruption totaling Rp 3.296 trillion. Of this amount, only Rp 1.9 billion - a mere 0.056% - has been successfully retrieved.⁶⁶

⁶⁴ See among others the analysis of the Development Finance Controller (BPKP) towards the institution and performance of the Attorney General's Office of the Republic of Indonesia in, BPKP, *op. cit.*: The Establishment of an Indonesian Anti Corruption Commission Project, "A Review of Current Initiatives on Anti-Corruption in Indonesia," (Jakarta: de Speville and Associates, ICE on Indonesia, Project Consultants, October 2000); and the Discussion Paper in the Workshop of the Attorney General Office, Jakarta 7-8 March 2001.

⁶⁵ The evaluation referred is the Material of the Working Session of the Attorney General's Office of the Republic of Indonesia with the Commission II of the House of Representatives (Bahan Rapat Kerja The Attorney General's Office RI dengan Komisi II DPR), 28 March 2001. Unfortunately the description of the report and the evaluation of the Attorney General's office is not formatted appropriately, if not to say terribly. Hence there are a number of conclusions on the existing data that are difficult and confusing to read and analyze.

The Attorney General's office faces myriad problems, from its lack of institutional capacity and the low quality and integrity of its systems, to the lack of coordination with other institutions, such as the Police and the Development Finance Controller (BPKP), and the socio-political factors that haunt it. During the Orde Baru years, the Attorney General's office purely an instrument of repression, serving the government as a focal point for stamping out political and ideological movements that dared to criticize it or oppose its rule.⁶⁷ Hence, the office was more of a political than a legal entity.

Reporting directly to the President,⁶⁸ it epitomised of the nature of the politics of the day: ferocious, and far removed from the people's grasp,⁶⁹ serving the interests of the ruling parties alone. Ironically, it did not show its draconian image when dealing with the corruption cases that occurred so frequently during its administration. Not only was there no concrete policy to root out corruption - as described in the above policy - but it was public knowledge that the opportunity for corruption became a means of supplementing official incomes, and was regarded as the right of officials working in the office.

In light of this perverse situation, corruption will not easily be eradicated as long as the Attorney General's office is entrusted with the job. Terrifying as it seems, even the best-laid plans and efforts to eradicate corruption in Indonesia will be thwarted and sabotaged through this agency. The instruction to form a Commission for the Eradication of the Criminal Act of Corruption as part of Law No. 31/1999 is a political decision that gives the Attorney General's Office no further part to play in the eradication of corruption, and has even abolished its special

⁶⁶ These instant figures are the result of processing the same material (Ibid.) done by www.hukumonline.com, see *Buruknya Kinerja Kejaksaan*, 24 April 2001.

⁶⁷ Part of the duties of the Attorney General's office at that time was to assess the ideological and political orientation of scientific studies and religious sermons, as well as works of literature, music, film, and even paintings.

⁶⁸ The Attorney General, the chief executive of the Attorney General's Office, is appointed by , dismissed by and responsible to the President, see Article 19 of Law 5/1991 and Article 1 paragraph (1) of the Presidential Decree of the Republic of Indonesia No. 55/1991. The Attorney General is also a member of the Presidential Cabinet, positioned equally to the Ministers.

⁶⁹ Although formally an internal supervision over the Prosecutors exists, it is not operating, the complaints of the people are accordingly not processed; the Prosecutors Honorary Council which, in theory, has the authority to examine the behaviour of the Prosecutors, has never been established.

status as the only institution with the authority to bring corruption charges to court.⁷⁰ This strategic move is a far more logical and realistic one than the proposal to wait for a comprehensive overhaul of the Attorney General's office, which will certainly be a long time coming, and would only serve to exacerbate the already systemic corruption in Indonesia.

The Police Force (Polri)

Polri faces similar problems. Law No. 28/1997 lays out Polri's objectives, which are to maintain order and enforce the law, and function as a government tool to guarantee such law enforcement (Articles 2 and 3). To achieve this, Polri is authorized to conduct investigations into all criminal acts in accordance with the Code of Criminal Procedure and other legislatures.⁷¹

Polri is led by the Chief of Police (Kapolri) appointed by and responsible to the President as Commander-in-Chief (Article 11). It is important to observe that although Polri is a member of the Armed Forces, Law No. 28/1997 asserts that Polri is not a military body and is therefore not responsible for domestic security (Article 5). This differentiation is actually a good start for Polri, as the military role of Polri has long been more keenly felt than its role as public protector and servant.

The main obstacle for Polri is integrity. The public perception is that corruption has become institutionalised within Polri.⁷² Members of the Police force are frequently caught engaging in corrupt practices.⁷³ This matter of integrity can also be seen from the people's distrust of the police, as reflected in the rise of 'village justice' and the significant number of important cases,

⁷⁰ The principal duties and authorities of the Attorney General's Office are in Law No. 5/1991 concerning the Attorney General's Office of the Republic of Indonesia as a government institution who implements the state's authority in the field of prosecution and the follow up actions (Article 2 paragraph (1) of Law No. 5/1991). See also Article 1 paragraph (1) of the Decree of the President of the Republic of Indonesia No. 55 of 1991 concerning the Organizational Composition and the Working Order of the Attorney General's Office of the Republic of Indonesia ("Keppres No. 55/1991") which stated that the Attorney General's Office is the country's government institution that implements the state's authorities particularly in the field of prosecutions. The Attorney General also possesses special authority, among others coordinating the handling of certain criminal cases, including corruption, with the relevant institution.

⁷¹ Article 13 point b and 14 paragraph (1) point a.

such as the recent spate of bomb attacks, that have yet to be cracked. The other problem is resources, be it quantity and quality of human resources, or financing. Indonesia has one of the lowest ratios of policemen per capita of population of any country.⁷⁴ Many people also believe that, besides lacking adequate funds for its operations, Polri lacks the capacity to handle sophisticated and complex criminal cases.⁷⁵

The Courts

In general, the composition and authority of the judiciary bodies in Indonesia are set out under Law No. 14/1970 relating to the Principal Provisions of the Judiciary Authorities. This law has been amended and supplemented by Law No. 35/1999. Judicial authority rests with four distinct bodies: (a) the Public Court; (b) the Religious Court; (3) the State Administrative Court; and (4) the Military Court. All of these are presided over by the highest judicial entity, the Supreme Court of Justice.⁷⁶ Nevertheless, the possibility of forming a special judiciary body other than the existing judiciary bodies also exists.⁷⁷

Corruption within the judiciary system of Indonesia is handled in the public courts, the composition of which is regulated under Law No. 2/1986 relating to Public Judicature. The law states that the authority for judicial matters shall rest with the High Court and the District Court

⁷² Satjipto Rahardjo, *Polisi dan Persekongkolan Jahat*, Kompas, 29 August 1996

⁷³ The case that has been particularly exposed concerned the usage of narcotics in police circles.

⁷⁴ Kompas, *Polisi Kehilangan Jati Dirinya*, 4 December 1999. It was also stated that the number of police has not changed much since the 1950s.

⁷⁵ Satjipto Rahardjo, *loc.cit.*

⁷⁶ Article 10 paragraph (1) and (2) Law No. 14/1970.

⁷⁷ Article 13 UU No. 14/1970. What is referred to as the existing Judiciary Bodies are The Public Court, The Religious Court, The Military Court and The State Administrative Court (Article 12). There is no reason why a judiciary body that is new, independent and separated from all of the existing judiciary bodies cannot be established, but the recurring and usual situation has always leaned towards the establishment of chambers within the public judiciary body's circle, for example The Juvenile Court, The Commercial Court and The Court of Human Rights. This is the result of the deduction from Article 2 of Law No. 2/1986 which stated that special courts can be established within the circles of public judicatures. Nevertheless, the provisions set out under Law No. 14/1970 should have prevailed as theoretically, a completely new judicial institution could be established.

(Article 3 paragraph (1)). The District Court, whose jurisdiction comprises the municipal area or regency, has the authority to try civil and criminal cases in the first instance. The High Court, whose jurisdiction comprises the provincial area, has the authority to try cases at the appellate level (Article 6 in conjunction with Article 4 in conjunction with Articles 50 and 51 paragraph (1)).⁷⁸

The District Court and High Court are operated by a Chairman, Vice Chairman, Judge, Clerk, and Bailiff of the Court. The highest authority lies with the Chairman of the Court. Others are authorised to supervise the performance of the judges and other court officials in their jurisdiction (Article 53 (1))⁷⁹ and to distribute the case files to the Tribunal of Judges (Article 56).⁸⁰ The Chairman of the Court may not reduce the judge's freedom in examining and deciding on a case, nor can he disturb the process of the trial in court.⁸¹ However, in reality, such great authority in the hands of the Chairman of the Court is naturally prone to abuse.⁸² Whereas in the Supreme Court of Justice, although the Court judges possess equal authority, the Chairman of the Supreme Court of Justice has the authority to distribute cases.

During the Orde Baru period, the Court's impotence in examining and deciding corruption cases was deemed to be the consequence of government interference, especially through the Department of Justice. This department manages financial matters, recruitment and job transfers for judges. This assumption is not wholly accurate, but it is nevertheless a fact that nowadays, with the hegemony of the government decreasing rapidly, the Court in many cases has acquitted or imposed extremely light sanctions on those convicted of corruption. These days, the law courts themselves are considered a hotbed of corruption. This is clearly seen from the increasing popularity of the term, 'court mafia'.

⁷⁸ Other than that the High Court also possesses the authority to try cases in the first and last instances for disputes of trial jurisdiction between District Courts in its jurisdiction (Article 51 paragraph (2)).

⁷⁹ Particularly for the Chairman of the High Court, he/she possesses the authority to supervise the process of the hearing in the District Court within his/her jurisdiction (Article 53 paragraph (2)).

⁸⁰ Another authority is to determine the sequence in which cases must be tried, based on sequence numbers, but is also authorized to prioritize cases that involves public interest, for example corruption (Article 57).

⁸¹ See Article 53 paragraph (4).

⁸² for example the determination to conduct seizure or detainment in relation to problems of corruption

It is hard to believe that such a corrupt, low-quality court system is supposed to be the main key to resolving corruption cases in Indonesia. The Joint Team for the Eradication of Corruption (TGPTPK) in fact focuses on the eradication of corruption in judicial bodies, on the assumption that cleaning up the judicial institutions themselves will have a positive knock-on effect to other elements of society. In order to guarantee a 'clean' judicial institution to examine corruption cases, TGPTPK has issued a proposal to the Government and the House of Representatives (DPR) to establish a special ad-hoc judicial institution.⁸³ This proposal is widely supported by the public, but the Government, House of Representatives and the Supreme Court of Justice have yet to respond.

Joint Team for the Eradication of Corruption (TGPTPK)⁸⁴

In addition to the above triumvirate of conventional law enforcement institutions, during 2000 a special institution was formed with the task of bringing to light corruption cases that were difficult to prove.⁸⁵ Formed and controlled by the Attorney General, the 25-member team⁸⁶, comprising people from a variety of backgrounds, was entrusted with the task of coordinating the investigation and prosecuting anyone strongly suspected to have been involved in such a case.⁸⁷ The team had other specific responsibilities, too.⁸⁸ It must be noted that this authority did not apply to TGPTPK as an institution, but to its members. The actual investigation

⁸³ Kompas, TGTPK Bertemu President: Minta Dibuat Perpu Peradilan Ad-Hoc Corruption, 22 February 2001.

⁸⁴ Most of the discussion concerning the Joint Team For the Eradication of the Criminal Act of Corruption (TGPTPK) is based on The Joint Team For the Eradication of The Criminal Act of Corruption "Material of the Joint Team For The Eradication of The Criminal Act of Corruption (TGPTPK) at the Working Session of the Attorney General's Office of the Republic of Indonesia with Commission II of the House of Representatives of the Republic of Indonesia" (Materi Tim Gabungan Pemberantasan Tindak Pidana Korupsi Pada Rapat Kerja The Attorney General's Office RI dengan Komisi II DPR-RI), 12 October 2000, and The Semester Report of the Joint Team For The Eradication of The Criminal Act of Corruption (TGPTPK) for the Period of June-November 2000.

⁸⁵ Pursuant to Article 27 of Law No. 31 of 1999 and Government Regulation No. 19 of 2000, the Joint Team For The Eradication of The Criminal Act of Corruption (TGPTPK) was formed as an "extraordinary" institution to specialize in handling criminal acts of corruption that are difficult to prove. The Joint Team For The Eradication of The Criminal Act of Corruption (TGPTPK) is also intended as the embryo of the Commission for the Eradication of the Criminal Act of Corruption as instructed under Law No. 31/1999, see the Elucidation for Article 18 of the Government Regulation No. 19/2000.

and prosecution could only be conducted by the Police and Prosecutors.

Between June and November 2000 the TGPTPK Secretariat received 409 letters, reports and pieces of information, of which 160 were handed over to TGPTPK for further scrutiny. 137 of these incidents were submitted to the Case Administration section at the Attorney General's Office to be followed up. Of these, only nine cases have reached the investigation stage. Three cases are currently being examined, and two cases are in the process of being elevated to the investigation phase.

The TGPTPK team faced a number of obstacles, both internal and external, that prevent it from functioning to the best of its ability. One internal obstacle is the work commitments of its members. Although TGPTPK candidates are required to state their willingness to leave their main jobs and work full time for the TGPTPK, hardly any members are able to fulfill this requirement. This is perhaps related to the other main obstacle, financing. Even several months after its establishment, the TGPTPK had not received the funding for members' salaries.

The most significant external obstacle is the legitimisation of the TGPTPK and its relationship to the judicial institution, which has become the focus of its work. In an investigation conducted on several judges, the Court decided in a pre-trial ruling that the TGPTPK, which had been established pursuant to Law No. 31/1991, did not have the authority to investigate corruption cases that occurred prior to the enactment of the law.⁸⁹ Under the Criminal Code (KUHP), however, the scope of authority of pre-trials is limited⁹⁰ and does not include making declarations as to whether or not an institution possesses the authority to conduct investigations. In addition, the TGPTPK is not a new examining institution, and examinations are carried out by the police or prosecutors.⁹¹

⁸⁶ Decree of the Attorney General Number: Kep-102/J.A/5/2000 dated 23 May 2000.

⁸⁷ Article 19 of the Government Regulation No. 19/2000.

⁸⁸ For example the authority; (i) to request information from the Bank and if necessary, ask the Bank to block the suspect's saving account; (ii) to open, examine, confiscate letters and mail delivery, telecommunication, or other tools that are suspected to be related to the act of corruption being examined; (iii) to conduct phone tapping; and (iv) to propose containment.

⁸⁹ The Decision of the District Court of South Jakarta No. 11/Pid/Pra/2000/PN. JAKSEL. In addition to the aforementioned case, this decision has also stated that bribery cases committed by judges are not classified as cases that are difficult to prove.

The court ruling therefore exceeded its authority. In a number of other cases, the TGPTPK has also failed to obtain a permit from the Supreme Court of Justice to carry out policing acts over judges⁹² and conduct searches and seizures.⁹³

Preventive and Detective: Facilitating or Complicating?

Financial and Government Audit Institutions

The main institution responsible for auditing the state's financial responsibilities is the Supreme Audit Body (BPK). The legal basis for the existence and function of this institution is stated under Article 23 paragraph (5) of the Indonesian Constitution, which also stipulates that the result of the examination shall be presented to the House of Representatives.⁹⁴ Constitutional law thus explicitly states that BPK's role is merely to coordinate with the House of Representatives.

BPK was established on 28 December 1946 pursuant to Government Regulation No. 11/Um in line with the tenets of the Constitution.⁹⁵ Through Law No. 5/1973 concerning the Supreme Audit Agency, the Orde Baru Government revoked Government Regulation No. 11/um. Fundamen-

⁹⁰ Among others, to determine the validity of the arrest, detainment, ceasure of investigation or ceasure of prosecution as well as the compensation or rehabilitation for people whose criminal cases have been halted.

⁹¹ See also Joint Team for the Eradication of the Criminal Act of Corruption, Material of the Joint Team for the Eradication of the Criminal Act of Corruption In thw Working Session of the Attorney General Office of the Republic of Indonesia with Commission II of the House of Representatives of the Republic of Indonesia (Materi Tim Gabungan Pemberantasan Tindak Pidana Korupsi Pada Rapat Kerja The Attorney General's Office RI dengan Komisi II DPR-RI, 12 October 2000, Page 14.

⁹² As required under Article 26 of Law No. 2 of 1986 concerning Public Judicature that has been 'extended' with the Decree of the Supreme Court of Justice No. KMA/125/RHS/VIII/1991, 31 August 1991.

⁹³ Semester Report of the Joint Team For The Eradication of The Criminal Act of Corruption (TGPTPK) for the Period of June-November 2000, Page 17.

⁹⁴ The elucidation of this Article reinstated that this agency is not subject to the government - regardless of the influence and control - but on the other hand it does not stand over the government. This contrasts with the coordination between the Supreme Audit Agency (BPK) and the House of Representatives, whose background is to fit in with the examination function and the budgetary function owned of the House of Representatives.

tal changes were made to the position of BPK in Indonesia's administrative structure, whereby BPK was obliged to notify the President of the results of its examinations (Article 3). This led to a formal consolidation/centralization process for supervision of state finances, which would later become one of the legal instruments exploited by the Orde Baru to straddle the two principal ethics of a democratic, transparent government and public accountability for administrative performance.

Financial audits are also handled by the Development Finance Controller (BPKP).⁹⁶ One of the main tasks of the BPKP is to organize the supervision of financial controls and management, and the supervision of development activities. This includes the entire revenue and expenses of the Central and Regional Governments, including supervision of State-Owned Enterprises (BUMN) and Regional-Owned Enterprises (BUMD), as well as other bodies that are partially or entirely owned by the Central and Regional Governments, or that are entirely or partially funded or subsidized at the burden of the State Revenue and Expense Budget (APBN).⁹⁷

In relation to the eradication of corruption, one of the responsibilities of BPKP, particularly the Deputy for the Field of Special Supervision, is to conduct special investigations into cases pertaining to unsuccessful implementation of development activities and those that are thought to contain elements of deviation. Hence, the duties and responsibilities of BPKP do not differ from those of BPK.

⁹⁵ The Supreme Audit Agency (BPK) does not submit to or position itself subordinate to the government: instead it has an equal position with the government.

⁹⁶ The legal basis of the Development Finance Controller (BPKP) lies with Presidential Decree No. 31 of 1983 concerning the Development Finance Controller.

⁹⁷ Institutionally, the Development Finance Controller (BPKP) is accountable for its functions and duties to the President with copies to the Coordinating Minister of the Economy, Finance, Industry and Development Supervision and the State Secretary Minister. The report on the result of BPKP supervision is conveyed to the relevant minister with copies to the Coordinating Minister of Finance, Economy, Industry and Development Supervision, Minister of Finance (to the extent that it pertains to the result of a financial audit) and Minister for the Cultivation of State Apparatus, and BPK (to the extent that it pertains to the result of a financial audit) – and other officials who are deemed necessary. If the results of the examination is suspected to contain elements of the criminal act of corruption, the Chairman of the Development Finance Controller (BPKP) shall report them to the Attorney General.

In addition to BPK and BPKP there are a number of internal executive institutions that were established during the Orde Baru period to oversee governmental performance, particularly in relation to the implementation of development projects. These institutions are

- (i) the Inspectorate General for Development (Irjenbang), which supervises sectoral projects assigned or instructed by the President (Inpres), focusing on the qualitative aspects;
- (ii) the Inspectorate General (Irjen), whose duties include internal supervision within each technical department or working unit under the relevant department;
- (iii) the Supervisory Unit on Institutional Functions, whose duties are to conduct internal supervision of the institution or institution line-up for the chairman of the relevant institution. An example of this is the Assistant Minister to the State Secretary for Supervisory Affairs, who is authorized to supervise non-departmental institutions such as the offices of coordinating ministers and the State Minister, the National Institute of Science (LIPI), the Institute of State Personal Administration (BAKN), and so on. Other institutions such as the Attorney General's Office, the National Family Planning Board (BKKBN) and the Bank of Indonesia have similar units;
- (iv) The Regional Inspectorate at regency or municipality level, whose duties include conducting internal supervision of the working units that manage the Regional Revenue and Expense Budget (APBD), including the projects based on the Presidential Instruction/Presidential Assistance. It is also the supervisory tool for the functions of the Governor (as Itwildaprop) and the Regent (Itwildakab);
- (v) The Vice-President's Institute, whose primary duty is to act as a supervisor to assist the President and is equipped with a Mail Box 5000 system to accommodate the complaints of the people in public service.

Ironically, almost all of these institutions are established not so much to eradicate corruption, but more to control it. There is a historical reason for this: these institutions (with the exception of BPK) were all formed during the same period - the 1980s - in an attempt to save Indonesia's economy at a time when it was beset by a dearth of investment funding for development, both from the State Revenue and Expense Budget (APBN) or from the domestic and foreign capital investors.⁹⁸ The prevailing idea at the time was that corruption had brought misery to the

lives of the people, and even endangered them. Regardless of the complexity of the economic policy of the time, it was widely recognized that the state administration needed to conduct its duties as efficiently as possible.

What is clear, however, is that this strategy was not aimed at a major overhaul of the existing structure and power relationship, where eradicating corruption was seen as a way of achieving this. Corruption remained an important incentive to guarantee the loyalty of the bureaucratic apparatus - as it became increasingly unlikely that they would ever be fairly rewarded by the state – during the volatile economic and political situation within the country. Internal institutions within the administrative-centralistic supervisory system were in fact expected to guarantee control over the misappropriation of development funds, whilst maintaining the loyalty of the bureaucrats.⁹⁹ It is within the framework of such a system that this development finance controlling institution conducted its duties.

The Commission for the Inspection of the State Official's Wealth (KPKPN)

The Commission for the Inspection of the State Officials' Wealth (KPKPN) was established pursuant to Law No. 28/1999 as an independent institution beyond the influence of judicative or legislative executives. However, the implementation of the KPKPN is monitored and evaluated by the President and the House of Representatives, although these do not have the power to intervene in the process or in the results of the examination. KPKPN reports its findings to the President, the House of Representatives and BPK, and (with respect to judiciary matters within the state administration) to the Supreme Court of Justice.

Pursuant to Law No. 28/1999, the function of KPKPN is to prevent KKN practices. However, seen as a whole, the commission was designed to obligate state administrators to declare their wealth. KPKPN's responsibilities include (i) monitoring and clarifying the assets of state

⁹⁸ Mohtar Mas'oe'd, "Prospek Sumber Pembiayaan pembangunan dan Penyesuaian Birokrasi," Prisma, No. 2/1985. At the time, the plentiful development funds enjoyed throughout the period of the 1970s from the increase in oil prices in the international market had declined considerably.

⁹⁹ The disciplinary rules of employment as the derivatives of Law No. 8/1974 concerning Employments, began to be seen during that period.

administrators; (ii) scrutinizing public accusations of KKN conducted by state administrators; (iii) asking state administrators, whenever necessary, to prove that any assets held were obtained in accordance with the provisions of the prevailing laws.¹⁰⁰

There are four major issues surrounding KPKPN's responsibilities. Firstly, compared to similar types of institution in other countries, this institution possesses limited authority.¹⁰¹ Secondly, KPKPN is only authorized to carry out inspections; legal action is the prerogative of other institutions. Therefore, the essence of KPKPN is to act as a new supervisory institution in addition to the existing financial institutions. Moreover, since KPKPN is authorized to determine who it will report to the Police and the Attorney General's office, there are concerns that the new commission will become a new breeding ground for corruption. Thirdly, its functions overlap with the Anti-Corruption Commission. One member of KPKPN has even suggested that the commission merge with the Anti-Corruption Commission. Fourthly, KPKPN does not have the authority to examine the wealth of previous administrators, as Law No. 28/1999 does not apply retroactively.¹⁰²

KPKPN comprises over 20 Government and community members.¹⁰³ Members are nominated by the Government for approval by the House of Representatives, and then appointed by the President. Law No. 28/1999 stipulates that the members should be appointed and that KPKPN be operational within one year of Law No. 28/1999 coming into force (May 2000).¹⁰⁴ However, KPKPN members were not sworn in until 11 January 2001, and the Commission did not commence operation until March 2001. This delay occurred mainly as a result of the heated

¹⁰⁰ Other than that, they had a number of other kinds of authority, namely (i) to conduct investigation on its own initiative pertaining to the assets of the state administrators; and (ii) to seek and obtain proof as well as presenting witnesses for the purpose of investigations. The way that these provisions are written makes it unclear as to whether the Commission for the Inspection of the State Official's Wealth (KPKPN) itself is authorized to conduct investigations/examinations. This matter is reflected in Article 8 of the Government Regulation No. 65/1999 that obligated the Commission for the Inspection of the State Official's Wealth (KPKPN) to report its findings to the authorized institution should it find leads on KKN acts.

¹⁰¹ MTI, *op. cit.*

¹⁰² This was one of the demands of the Commission for the Inspection of the State Official's Wealth (KPKPN) to the Government before they commenced their work. See http://www.hukumonline.com/detail_berita.asp?id=1973

debate between the President and the House of Representatives about the number of members who should serve on the Commission.

Furthermore, because of the lack of transparency in the election process, there is a widely-held suspicion that the number and composition of KPKPN members are merely a political concession. Most of the Commission's members are candidate members of the House of Representatives who failed to obtain seats¹⁰⁵, and allocation of seats became a political playing field.¹⁰⁶

National Ombudsman's Commission (KON)

The establishment of a National Ombudsman's Commission (KON) through Presidential Decree No. 44/2000 was meant to increase the supervisory function of the people towards the state administrators and protect the rights of the public. In fact, this entity bears a strong resemblance to the Inspectorate General (Itjen) within the Government institution for internal supervision, although KON is external in nature. KON was granted a supervisory function because the existing supervisory institution was deemed unable to play an active role.

KON was established by the President; however, it is independent in nature and not responsible to any institution whatsoever. Selection of the Chairman and members is initially conducted by the President. Presidential Decree No. 44/2000 does not mention to which institution KON must be accountable.¹⁰⁷

KON's primary role is to entertain public reports on the state administration, including the judicial institutions, publish clarifications and monitor such reports (Article 2). KON is also authorized to investigate officials who are reported to obtain information, and work to uncover

¹⁰³ Members of the Commission for the Inspection of the State Official's Wealth (KPKPN), which at the present time has reached a total of 35 people, and is chaired by Yusuf Sakir, one of the figures in United Development Party (P3) that used to be a member of the House of Representatives in the period of the Orde Baru.

¹⁰⁴ This can be seen from Article 23 which gives the right to state officials to report and make known any wealth within a 6 month period in accordance with Law No. 28/1999, that is six months from when they were set up (Article 24).

¹⁰⁵ Kompas, Bola Kini di Tangan Presiden, 14 July 2000.

any transgressions committed by state administrators (Article 9). There are indications of overlap with other institutions, especially the Police Force, the Attorney General's office and the Anti-Corruption Commission. However, in KON's own words, it is not intended to function as an investigator or examiner.¹⁰⁸

Public response to KON was in fact very good. In the first two months of its establishment, KON received 200 reports, most of which involved the judiciary.¹⁰⁹ This at least proves several things: (1) the public's high degree of expectation from, and trust in, KON and (2) the countless procedural non-conformances of state administrators in carrying out their tasks, especially among the judiciary.

Unfortunately, other state administration institutions did not enjoy such a high level of trust.

The degree of reluctance of these institutions to follow up on KON reports is startling. Only 7 out of 191 cases for which clarification had been requested by KON received responses from the relevant institution.¹¹⁰ One of the examples is the reporting of a false verdict in the Supreme Court of Justice. KON requested that the handling of the case involve the police, as there were criminal elements involved, but the Supreme Court of Justice rejected the request. Instead it established the Supreme Court Judges Honorary Tribunal so that Supreme Court judges accused could be dealt with internally.¹¹¹ The performance results of this Honorary Tribunal are still not known. KON maintains that work performance cannot be optimized, as it was not supported by a good infrastructure, and the report submitted does not make it possible for the court to follow up, owing to the lack of compelling evidence.¹¹²

Parliament's Role and Responsibilities

¹⁰⁶ <http://www.kompas.com/kompas%2Dcetak/0011/15/nasional/pres06.htm>

¹⁰⁷ In the Bill of Law concerning KON that is being discussed in the House of Representative, KON delivers its report on the results of its supervision periodically to the House of Representatives.

¹⁰⁸ Anton Sujata, Komisi Ombudsman Nasional, no year, Page 4.

¹⁰⁹ <http://satunet.com/artikel/isi/00/05/07/14505.html>

¹¹⁰ <http://satunet.com/artikel/isi/00/06/23/18761.html>

¹¹¹ Kompas, 28 April 2000.

The term 'Parliament' in this section may refer to either the People's Consultative Assembly or the House of Representatives.¹¹³ In a formal, institutional sense, the two institutions do exist as separate entities. The People's Consultative Assembly, however, is in reality dominated by the members of the House of Representatives, both in terms of numbers and representation. In this section we will concentrate more on the extent to which Parliament intends to eradicate corruption, and how it proposes to do so, as opposed to its limitations.

Strategic Macro Policy and Evaluation

Parliament's main role in the eradication of corruption is to: (i) establish a strategic macro policy¹¹⁴, and (ii) evaluate the President's administration.¹¹⁵ Reference to strategic macro policy should be taken to mean all consensus results in Parliament as encapsulated in the decrees issued by the People's Legislative Council. The State Policy Guidelines (GBHN) have become the main tool for guiding as well as measuring the program and work performance of the President and his staff. Reference to evaluation should be taken to mean the three main groups that are responsible for implementation, namely: (1) The General Session ("SU"); (2) The Annual Session ("ST"), and; (3) The Extraordinary Session ("SI").

The SU is a parliamentary mechanism that serves to open and close an administrative period. This mechanism is very important for two reasons. Firstly, the determination of strategic macro policy and the evaluation-measuring tool, since the State Policy Guidelines (GBHN) and the other policies were drawn up at the time of the SU. Secondly, the official accountability report evaluation at the end of the Presidential term shall be stipulated in the SU. What is important is to determine whether the President's accountability should be accepted or rejected

¹¹² <http://satunet.com/artikel/isi/00/05/05/14335.html>

¹¹³ Although from the perspective of the strict Indonesian constitutional law this terminology is not quite precise and even somewhat ambiguous, nevertheless in order to make it easier to discuss and explain the existing dynamics, this term should be used.

¹¹⁴ Secara formal peran pembentukan policy makro strategis, diamanatkan oleh Article 3 UUD 1945

¹¹⁵ Peran evaluasi diberikan oleh Article 50 Tap No. 2 MPR/II/2000. Namun kini berdasarkan Tap MPR No. I/MPR/2000, selain President, lembaga tinggi negara lainnya memberikan laporan atas kinerja mereka kepada MPR. Sebenarnya meskipun MPR merupakan lembaga tertinggi negara (yang juga masih rancu secara akademis), tidak ada kewajiban bagi lembaga negara lainnya, kecuali President sebagai mandataris MPR untuk memberikan laporan. Lihat Tap MPR No. III/MPR/1978 tentang Kedudukan

are the new MPs, who are not the same people who formulated the State Policy Guidelines (GBHN) to be implemented by the President. Final accountability of the President leads to one of two actions, acceptance or rejection. Since the SU in 1999, which rejected Habibie's accountability speech, new rules have been introduced. If the President's accountability speech is rejected, the President shall no longer be available for nomination for the next period Presidency.¹¹⁶

The SU mechanism is a tool for achieving the most basic political consensus in Parliament, as well as a momentum for measuring whether the endeavours to eradicate corruption have commenced in an optimal manner or not. Unfortunately, discussions pertaining to political substances, particularly the eradication of corruption within the SU, are somewhat closed, tend to be constricted by time, and do not go far enough. The SU momentum is more dominated by the dynamics of the new Presidential and Vice Presidential Election.

ST is a new institutional set established since the post Orde Baru period.¹¹⁷ One of the main agenda of the ST is the Presidential speech in the form of reports pertaining to the People Legislative Council's Decree in the previous year. In addition to the Presidential speech, reports from the supreme state institution, such as the House of Representatives¹¹⁸, the Supreme Court of Justice and BPK will also be heard and discussed. From these reports, the parliament will declare its opinion and make recommendations that will be accommodated in the form of a Decree of the People's Legislative Council. From the result of the parliamentary discussion on the reports of the President and the supreme state institutions pertaining to the eradication of corruption in the first ST in the year 2000, the recommendations that have been expressed, explicitly or implicitly, are:¹¹⁹

- President: since the endeavour to settle KKN cases has not been optimised, the President should implement Tap MPR no.XI/MPR/1998.

dan Hubungan Tata Kerja Lembaga Tertinggi Negara Dengan/Atau Antar Lembaga-Lembaga Tinggi Negara.

¹¹⁶ See Tap MPR No. II/MPR/2000 relating to changes in MPR guidelines.

¹¹⁷ The legal basis for the ST is Article 1 Tap No.1 MPR/I/1998 concerning the Amendment to Tap MPR No.1 MPR/I/1983

¹¹⁸ It is interesting to note that the MPR evaluates the performance of the DPR, which is in fact dominated by MPR members. This means that the MPR is effectively evaluating itself.

- House of Representatives: in implementing its supervisory function, the House of Representatives should be more proactive in motivating the settlement of KKN cases old and new by observing the priorities.
- BPK: needs to improve the effectiveness of its examinations, to maintain a high morale, and to be independent.
- The Supreme Court of Justice: must improve the quality of its Human Resources for all judges at all levels and align itself with integrity and morality in the fulfillment of its responsibilities.

This shows, then, that they tend to be soft in viewing the problems of corruption in each of these supreme institutions. The recommendation given by Parliament depicts several issues, among others; (1) recommendations that are merely based on the reports given, with no emphasis placed on the anti corruption pre-condition required by each of the institutions in order to optimize the work, and; (2) Parliament's perspective that does not view corruption as a systemic problem that can only be overcome with improvement in the morals of state officials.

The possible elimination of the ST mechanism is currently being hotly debated. Aside from being too wasteful from a financial perspective, a large-scale annual evaluation will only overlap with the daily supervision conducted by the House of Representatives. Moreover, if the composition of Parliament is later changed to become bicameral (two-chambered parliament). This will automatically reduce the chances of Parliament being able to organise a large-scale political ceremony.

The main difference between the SI and the other two is not timing, but the pre-condition that there be an emergency or extraordinary situation, as well as the procedural requirements that there be a request from the House of Representatives to hold the SI.¹²⁰ The SI mechanism is chiefly purposed to follow up on the Memorandum conveyed by the House of Representatives to the President reprimanding the President on his/her policy.¹²¹ It could be argued, therefore,

¹¹⁹ See Tap MPR No. VIII/MPR/2000.

that the SI is a reaction towards the evaluation process based on a fundamental situation, which continues to exist in a somewhat relatively short period. The end result of the SI is the parliamentary decision rendered in the form of a verdict for the President for his/her responsibility pertaining to the work performance of his/her administration and other fundamental matters.

In the SI of 1999, the eradication of corruption was felt to be one of the most important agenda, hence the Decree of the People's Legislative Council (Tap MPR) No. XI/MPR/1998 concerning a KKN-free state administration. This Tap MPR was the reason several new anti KKN laws and institutions were formed. Technically, this Tap MPR holds a number of problems.¹²² Implied from the stipulation of this Decree was the somewhat naive paradigm that the problems of corruption and all its variant can be settled with matters of mere regulatory and ceremonial nature.¹²³

Supervision, Budgeting and Legislation

Generally speaking there are three parliamentary functions that can be used as weapons in the war on corruption namely;

- (1) Control (the supervisory function);
- (2) Budgeting (the determination and financial evaluation of the State Revenue and Expense Budget (APBN) function); and

¹²⁰ Article 7 of Tap MPR No. III/MPR/1978

¹²¹ This Memorandum of the House of Representatives is the First Memorandum. There are three phases to the impeachment process. After the First Memorandum, a three-month interval is given. If the President is adjudged not to have not changed his/her policy in relation to the reprimand given by the House of Representatives, a Second Memorandum is issued. If the President still make no change in policy, the House of Representatives may request that the People's Legislative Council hold the SI to demand the President's accountability.

¹²² One somewhat sensitive technical problem is the position of the Decree of the People's Legislative Council (Tap MPR) which is general and abstract in nature by intention. By such norms, which apply to the Tap MPR, no specific mention of a legal subject (such as the mention of Soeharto in this Tap MPR) shall be allowed, as it does not conform with the objectives of the Tap MPR. For complete information, see Maria Farida Indrati Soeprapto, Ilmu Perundang-undangan: Dasar-Dasar dan Pembentukannya, (Yogyakarta: Publisher Kanisius, 1998).

¹²³ For example this Tap stipulates that a person appointed as an official shall first take an oath that he/she will not engage in KKN and is willing to subject his/her assets to an audit.

- (3) Legislation (the legislation function).¹²⁴ In contrast to previous roles, these roles can only be carried out by MPs.

Control

There are two instruments to implement control: (1) the Commission and Special Investigating Committee;¹²⁵ (2) the members' rights instrument.¹²⁶ During the Orde Baru this function was known to have no power at all. Analysts have said that those things are caused by 2 (two) factors; (1) the cooptation of the parliament by the power centered in the institution of the Presidency; and (2) the weakening of the instruments of the institution and the rights of the Members of Parliament.¹²⁷ Since the change of power in May 1998, the position and political roles of Parliament has gradually changed. Members of Parliament chosen through the General Election in 1999, are no longer co-opted by the President. The rights of the Members of Parliament members, previously reduced to just the "institutional" rights of the House of Representatives, have now been recovered.

Moreover, it has become publicly known that the power of parliamentary politics has recently become stronger than the power of the President and several events have underlined this. It still

¹²⁴ All of these functions are attributed by the Constitution and are partly interpreted in Law No. 4/1999 governing the Composition and Position of the Members of the People's Legislative Council, the House of Representatives, the Regional Legislative Council, and the (internal) Rules of Order of the House of Representatives of the Republic of Indonesia (internal rules).

¹²⁵ Commission and Special Committee (Pansus) is a complementary tool to the House of Representatives. There are two types: (a) The Special Investigating Committee, and (b) The Special Committee to Discuss the Bills of Law. The Special Investigating Committee is related to the control function whereas the Committee to Discuss the Bills of Law is related to the legislation function.

¹²⁶ There are seven types of rights in the Rules of Order of the House of Representatives of the Republic of Indonesia, namely: (1) The right to request information from the President; (2) The right to conduct an investigation; (3) The right to modify the Bills of Law; (4) The right to submit Bills of Rights; (5) The right to Nominate/Advise someone for certain Positions if stipulated under certain Legislatures; (6) The right to determine the budget; (7) The right to pose queries. Rights (1), (2), and (7) are closely related to the supervisory function. These rights are corroborated by the provisions under Article 35 paragraph (2) of Law No. 4/1999, which threaten to impose criminal sanctions on people who refuse to be summoned and/or to provide information to the House of Representatives.

seems, however, that the supervisory function of the parliament towards the government is marred by vulgar and short-term political interests. This supervisory function is without structure, has no clear strategy, is not transparent, and tends to be driven by party political interests. We see this in the supervision of corruption cases. From the number of cases pertaining to the suspicion of governance and financial deviation in 1999, there are only two cases that have been followed up through the Special Investigating Committee, namely the Special Committee for Bank Bali and the Special Committee for Brunei-gate and Bulog-gate.

A number of other prominent cases (such as the Texmaco case, the BRI case, the BLBI case) are “merely” dealt through a commission or working committee, which, in the end, will simply result in a mere urging from the parliament to certain institution, for example the Attorney General’s Office and/or the Development and Finance Controller (BPKP).

One of the weaknesses of this control function is, in the absence of a special commission to conduct daily supervision and evaluation on the process of handling corruption cases, that the existing working commission is unable to adequately deal with these matters due to the significant burden of work and the fact that it seems to be a “sectoral” problem. In fact, however, the problem of corruption is no longer a ‘temporal’ problem, let alone a “sectoral” problem, but is, on the contrary, a routine problem that should properly be handled in an intensive and non-sectoral manner. If we had a special commission, then the supervision and evaluation of the working commission could make a recommendation to establish the Special Investigating Commission. The establishment of a Special Investigating Commission is not likely to be done, however, reactively or based solely on political considerations: it needs to be based on a comprehensive evaluation and analysis.

¹²⁷ Cooptation towards the House of Representatives, among others, can be seen from the appointment procedure, the limitation of parties participating in the general election, the domination of the President over the presiding social political organizations, and the government’s blessing given to the leaders of each political party. In fact, the institution and rights of the members of the House of Representatives are weakened through the canalization of the voting channels of the members so that it can only be conducted through the faction, application of the recall mechanism, and a difficult procedure in implementing its rights. For further information see Mohtar Mas’oed, *Negara, Kapital, dan Demokrasi*, (Yogyakarta: Pustaka Pelajar, 1994).

Budgeting

This function is formally carried out by the State Revenue and Expense Budget (APBN) Commission in three forms, viz: (1) discussion and stipulation of the Bill concerning the State Revenue and Expense Budget (APBN); (2) discussion of the report resulting from the examination conducted each semester by BPK; (3) discussion and agreement of the Bill concerning State Budget Accountability (PAN).

In the past, the budget function gave more power to the government vis-à-vis parliament. There are three obstacles that parliament faces in carrying out the budget function;¹²⁸

- (1) the House of Representative's depends greatly on other institutions with respect to strategic planning or evaluation (on the government for the State Revenue and Expense Budget Plan/RAPBN and on BPK for the semester evaluation;
- (2) The dominance of parliamentary members who are excessively bureaucratic; and
- (3) the weak capacity of members of parliament members who do not have adequate expert support staff.

At the present time, the second obstacle can be surmounted, but the first and third obstacles continue to hold back the House of Representatives from properly implementing macro strategic planning, supervision, and evaluation of the state budget.

What needs to be done urgently is to amend the working relationship between the House of Representatives and BPK, especially with respect to the planning and supervision of the State Revenue and Expense Budget (APBN). One of the important points is to work out the their respective needs so that they will be able to effectively supervise and evaluate the APBN, and one of the needs is bound to be greater understanding of the Semester examination Result (HAPSEM) of the BPK - which needs to be more "easily read" by members of the House of Representatives.¹²⁹

¹²⁸ Sofian Effendi, "Hambatan Struktural Legislatif", *Prisma*, No. 6, Year XVIII, 1989.

Legislation

This function is carried out through two rights possessed by the members of the House of Representatives, namely the right to submit Bills and the right to modify Bills proposed by the Government. These rights are exercised at each level of discussion of a Bill.¹³⁰ In the past, this function suffered from almost the same fate as the budgeting function. Not even one Bill resulted from an initiative of the House of Representatives and all proposals were stipulated by the government. In fact, in one case, the President postponed the legalization of a Bill that had been discussed and approved by the Parliament.¹³¹

At the present time, the legislative function of parliament has not only been recovered, it has even grown stronger. In the First Amendment to the 1945 Constitution, the power to establish a Law that was previously “deemed” to lie with the President, has been “returned” to the House of Representatives.¹³² From the institutional perspective, the House of Representatives also possesses an institutional instrument that can establish legislatures, namely the Legislation Body of the House of Representatives. Hence, when we look at this from the perspective of authority and institutional instruments, parliament actuality does not have any problem in implementing its function of establishing legislation, with the proviso that the technical capacity of the members and the legislative drafting system still needs to be improved.

When we look at eradicating corruption, this legislation function becomes very significant, particularly in filling the legal vacuum and in synchronizing the existing laws. In the near future, there are a number of laws that badly need effective efforts so that they will be able to eradicate corruption viz:

¹²⁹ BPKP has shown that one weakness of this report is that it is not user-friendly, in the sense that it cannot easily be understood and thus followed up by the House of Representatives for ABBN supervision. See BPKP, op. cit.

¹³⁰ There are four levels of discussion of Bills of Law in the House of Representatives.

¹³¹ The case referred to is the Bill of Law on Broadcasting in 1997. This bill, which has been approved by the House of Representatives, is still deemed “unsuitable” for the perspective and needs of the government.

¹³² See Article 20 of the First Amendment to the 1945 Constitution.

- (i) The Law on the Establishment of the Commission for the Eradication of Corruption as instructed by Law No. 31/199,
- (ii) The Law on the Eradication of the Criminal Act of Money Laundering,
- (iii) The Law on Witness Protection;
- (iv) The Law on the Freedom to Obtain Information;
- (v) The Law on the Integrated Judicial System;
- (vi) The Amendment to Law No. 31/1999.

The laws that particularly need to be synchronized, if necessary even merged, are;

- (i) The Law No. 28/1999;
- (ii) The Law on Employment;
- (iii) The Law on the Criminal act of Bribery; and
- (iv) The Law that Regulates Matters pertaining to Financial Audits.

From all of the foregoing discussion, it can be clearly seen that the role and responsibility of the Parliament in the future eradication of corruption is very significant. There is, however, heavy pessimism growing amongst people concerned with these issues for two reasons: First, the current members of Parliament still concentrate more than anything else on the struggle for power, which will result in the issue of corruption becoming simply a political commodity - and this has become more and more obvious. Secondly, the suspicion that the absence of a dominant power in the political constellation in parliament will further encourage a "race" to get more seats in the upcoming General Election. Many think that this will result in the greater use of money politics and more draining of the state's finances, in addition to the individual or group acts of corruption as people look after their own needs.

FINDINGS AND CONCLUSION: A GLOOMY PICTURE

This section attempts to discuss the findings from the previous sections. In particular, the discussion will be directed at two principal matters:

- (i) mapping out the pattern of corruption management in the three previous administrations now embodied in the formal policies and laws together with a look at the dynamics of the institutions that related to corruptions in those three periods; and
- (ii) mapping out the prospect of future corruption management, based on analysis of the power and weakness of the existing general policies, laws and institutions relating to the eradication of corruption, whether preventive or repressive in nature.

The Pattern of Corruption Management During These Periods

In general, there is a common weakness in the pattern of corruption management in the three administration periods following the Orde Baru - namely the absence of a comprehensive strategy for the eradication of corruption that provides a strong direction for the law enforcement dimension (repressive strategy). Soeharto consciously attempted to interpret corruption as only a problem of behavioral deviation of the state apparatus pertaining to the state's finances in the context of national development. Problems of corruption in Soeharto's era, therefore, tended to be treated as a matter of bureaucratic discipline or a simple matter of development administration.

Pressures from the people that surfaced in the early period of his rule received the reactive response of channelling such pressures to detect prominent corruption cases by establishing ad-hoc institutions. There were no further efforts to settle those cases through the legal process. Soeharto consciously avoided using Law No. 3/1971 as the main means to eradicate corruption.

This pattern can also be seen clearly in the establishment of regulations and institutional instruments in his administration, particularly in the 1980s when the problem of corruption began to be perceived as something which disturbed the government's work and undermined the results of development. Much effort was extended to establish various regulatory and supervisory instruments that served to: (i) prevent a lack of discipline in the government apparatus; and (ii) supervise the planning and utilization of the state's finances in the development program.

What is interesting is that all the regulatory and institutional were subsumed into the President's policy, which was nothing but an attempt to keep full control over the course of development. The significant numbers of supervisory institutions generated a multi layered and

overlapping structure that has in fact neutralized the control function. Moreover, the institution itself became the center of corruption.

Ironically, the law enforcement institutions were not given sufficient resources or direction to handle corruption, and it was clear that they were themselves infested with corruption. What was even more fatal, the supervisory and regulatory instruments used has reduced (or at least obscured) the act corruption from being a criminal act to becoming an act of indiscipline or of deviation from governance ethics.

In the Habibie era, the corruption management pattern did not impose a strong pressure on the law enforcement agencies to tackle corruption despite the fact that there were popular demands to eradicate corruption at the time relating to the handling of the KKN case of the Soeharto family. The Habibie administration attempted to overcome the pressure to settle corruption cases by diverting the problem to become a mere matter of the ineffectiveness of the corruption related law. We can see this by the enforced establishment of a number of laws, giving an impression of hastiness and much political compromise. Consequently there have been no significant improvements in these laws, in fact in several matters there have been setbacks.

Formal policy implementation was even changed into mere intellectual discussion. One example of this is reflected in the establishment of ad-hoc institutions in that period. If Soeharto addressed corruption by pushing for more detection, Habibie did so by pushing for more discussion of the concept.

The existing law enforcement institutions, on the other hand, did not seem to aim to settle corruption cases as urged by the people. They gave the impression that the handling of each significant corruption cases would drag on and on and seem to be constantly obstructed by technical-procedural problems. No urgency for the eradication of corruption could be seen at all.

In the Gus Dur era, the law enforcement agencies also did not receive many resources or much direction in managing corruption, in comparison to the government's acknowledgement of the seriousness of the corruption problems at the present time. The corruption management pattern has been interpreted in a theoretical way, but in actuality there seems to be a lack of

coordination and synchronization at the operational level.

On the one hand, Gus Dur's administration has attempted to convince the public that the effort to eradicate corruption should begin and end in the law enforcement process. There have, indeed, been several cases relating to important figures, such as Tommy Soeharto and Bob Hasan which have, however, been handled quite badly and their implementation has been disorganised. (currently Tommy is still at large, whereas Bob Hasan was only given a light sentence). On the other hand, Gus Dur attempted to increase the people's participation in the corruption problem by emphasizing the inclusion of a wider range of people in the membership of the institutions relating to the eradication of corruption (TGPTPK, KON, and KPKPN).

On the other hand, however, Gus Dur seemed to be drawing things out in terms of law enforcement. No follow-up was made on his instructions to hand cases to the Attorney General for him to handle which gave the impression that the instructions were intended merely for political consumption. Although the TGPTPK was established, there was no sign of full support from Gus Dur or the Attorney General for the management of the corruption cases handled by the TGPTPK. Instead, Gus Dur has in fact taken controversial steps by meeting the suspects of corruption cases in person several times, and the Attorney General has diligently dismissed major cases of corruptions.

All in all, during the period of Gus Dur's administration, no effort was seen to establish a comprehensive and operational pattern to manage corruption. In fact, it looked chaotic and no clear prediction can be made of the outcome.

From the three periods of administration, it is apparent that corruption has not been handled seriously. The problem of corruption is merely articulated as a matter of shortcomings of the people or the government's apparatus in putting into practice the general principles of good governance. Hence, it has been considered sufficient to supervise and detect them. Things have not reached a stage where a firm and repressive sanction is provided for the criminal act of corruption. Even if it has reached the repressive dimension, such matters will only seem artificial and far from the sense of legal justice.

The Prospect of Handling Corruption in the Future

If we look at the availability and the support of the instruments of policy, law, and institutions in matters of eradicating corruption, it seems as if all of those elements are available and sufficient. The existing policies have explicitly stated that eradicating corruption is the priority of the government's program. Law No. 3/1971 and Law No. 31/1999 - with several of their technical constraints - are already sufficient as the principal law enforcement instruments within the framework of eradicating corruption, and the existing institutions have been given sufficient mandate for the job. If so the what is the problem?

If we delve deeper into the problem of how the eradication of corruption is implemented, we can discover the core problems for any future prospects of corruption management. The three planes that we need to look at are:

- (i) the policy plane i.e. strategies, especially those relating to the priority and target agenda
- (ii) the legal plane i.e. the dynamics and harmonization of the existing regulation instruments
- (iii) the institutional plane i.e. institutional leadership and coordination

The Policy Plane

The first problem is the lack of clarity about strategy as well as the priority for handling corruption cases. This is closely linked to the general and operational policies that have been formulated and will be implemented by the Government. Existing cases need to be settled and the existing institutional capacity has to do battle with the complexity of the quality and quantity of the existing corruption. Settling such cases can act as milestones in the effort to eradicate systemic corruption and will lead to increased public support and participation.

None of these things have materialised to date. In many cases, the difference in interest and capacity between the existing institutions have often meant inefficient handling of cases which is hardly in line with the attempt to comprehensively eradicate corruption. This theme recurs frequently in the text. The following sayings have achieved some popularity: "only light-weight corruptors have successfully been caught" or "heavy weight corruptors are only caught upon the charges of a lightweight corruptor." If this continues, the very unfortunate result will

be the increasing scepticism of the public. This will mean in turn not only that the support to eradicate corruption will be increasingly harder to obtain, but what's more it will open an opportunity for the people to have an increasingly permissive attitude towards corruption, which may possibly obstruct the endeavour to eradicate corruption comprehensively.

There is a great contrast when this is compared with the strategy for the settlement of Human Rights cases, which has clearly been put together systematically with an agenda and with a clear target. In fact the urgency for handling both Human Rights cases and Corruption cases are given equal prominence in the State Policy Guidelines (GBHN) and the National Development Program (Propenas). Institutional leadership and coordination will provide a major contribution for the settlement of this problem,¹³³ although empirical we know that leadership - whether political or administrative - has yet to exist, while the need for it has become very urgent.

The Legal Plane

The second problem is how to harmonize existing legislative instruments, especially those that determine what acts constitute corruption and what acts do not, and the stiffness of the penalties to be enforced for various forms of corruption. The lack of clarity in the general policy has led to the establishment of a large number of laws, which have caused legal discord and rendered law enforcement less effective.

As described above, three sets of laws contradict one another over the definition issue: the Law on Corruption, the Law on Employment Discipline and Financial Order, and the Law on Crime. Although at first glance there appears to be no significant contradiction between the three, in practice the second of these laws has the potential to belittle corruption in terms of its definition and attitudes towards it. Violations of this law are handled within a closed bureaucratic, hierarchical system, and in general result in purely administrative sanctions being admin-

¹³³ It is this very condition that has differentiated the problem of the settlement of Human Rights cases with the effort to eradicate corruption. Since its establishment in 1991, the National Human Rights Commission (Komnas HAM) has been relatively successful in playing the Human Rights issue as a national issue of a strategic nature. Komnas HAM has become the center for coordination and strategic planning for all activities relating to human rights in Indonesia.

istered to the guilty. There is no public dimension to sentencing. By contrast, the Law on Corruption sees a public trial as mandatory.

Laws relating to criminal acts differ from those set out under Law No. 11/1980 and Law No. 28/1999. Bribery, for example, is considered a general crime, compared to the severe penalties for corruption. The same applies to collusion and nepotism, which are defined as 'illegal acts aimed at enriching oneself or other parties that pose a detrimental effect on the public or the state's interest'. Categorised as general criminal acts, these two laws also have the potential to reduce the effectiveness of the corruption laws.

If the laws cannot be standardised, the prospects for eradicating corruption may still be hampered by internal administrative processes, and corruption as a criminal act will be minimised.

The Institutional Plane

The third problem is the absence of institutional leadership and responsibility in the fight against corruption. Aside from the fact that the mandate is unspecific and incomplete, each institution too often works alone, often contradicting the others. None one of them can thus be held wholly accountable for past failures to stamp out corruption. Proposals for synergising efforts under an umbrella institution, or core unit, have been put forward.¹³⁴ To achieve this, however, will first require us to identify traditional institutional problems.

As mentioned previously, a number of institutional problems, such as the lack of synergy, are quite fundamental to the corruption struggle. The most obvious of these is the conflict between the Attorney General's office and the police force over the handling of cases; the conflict between TGPTPK and the judiciary; the apparent disregard for BPKP by the Attorney General's office; and the suspicion that traditional institutions, including the police force, the Attorney General's office, the judiciary and financial and government supervisory institutions, are all suspected of having become breeding grounds for chronic corruption.

¹³⁴ A good analysis of this core unit is contained in the Development and Finance Controller (BPKP), *op. cit.*

The plan to establish a Commission for the Eradication of Corruption (KPK) this year under Law No. 31/1999 has opened the door for institutional improvement. At the very least, it is clear that the provisions under the said article require that KPK possess the authority to coordinate and supervise, as well as to conduct investigations, examine and prosecute under the law. With such authority, the KPK can become the core unit, or backbone, for eradicating corruption, coordinating strategy, whether preventive, detective or repressive, to synergize the various institutions and evaluate results obtained.

Three other institutions are being planned¹³⁵ which are considered to be in line with the need to eradicate corruption. These three institutions are actually not directly aimed at eradicating corruption. The Commission for the Eradication of the Criminal Act of Money Laundering (KPTPPU) is an independent institution set up to combat money laundering. However, since it has the authority to investigate financial transactions, it will greatly support the whole corruption effort, particularly of a detective and repressive nature. The Institution for the Protection of Victims and Witnesses (LPKS) is not designed to handle corruption cases, but human rights cases.¹³⁶ However, since its mandate is in line with the needs of the corruption effort, it may well provide great assistance to the enforcement of corruption laws, by adjusting its objectives and a number of its regulations. In contrast to the above two institutions, the Judicial Commission (KY)¹³⁷ is preventive, rather than repressive in nature. Its function is to supervise the performance of the judges, especially in the Supreme Court of Justice.

With the establishment of the above institutions, the organisation chart of corruption-based institutions will almost be complete; that is, apart from the existence of a corruption court.¹³⁸ A core unit to coordinate and supervise the eradication of corruption will be estab-

¹³⁵ This plan is included under the Legal Policy Matrix Policy of the Law on the National Development Program (Propenas).

¹³⁶ From the title of this Bill of Law on LPKS (Institution for the Protection of Victims and Witnesses), it can be seen that this institution is more closely linked to issues of Human Rights violations and crimes. This is particularly clear from the use of the term 'victim'. In corruption, the term is recognised in the personal sense, but in its entirety the victim is the state and the people. In the eradication of corruption, the legal instruments that are usually established to provide guarantees of protection to witnesses, especially reporting parties, are known as Whistleblower Acts.

lished, supported by the police force and the Attorney General's office, financial supervisory institutions (BPK, BPKP, KPTPPU) and the witness protection institution. It will also have the support of the government's supervisory institution (KON) and judicial supervision (KY). There are still obstacles, however, surrounding the existence of KPKPN. This Commission seems to open up the possibility for overlapping, or even contradiction, with KPK concerning duties and responsibilities. Responsibilities under KPKPN should be merged with the KPK. Similarly, the provisions under Law No. 28/1999 should be merged with those under Law No. 31/1999.

RECOMMENDATION: JUST DO IT !

The Government and the House of Representatives need to reaffirm their commitment to overcoming corruption by stressing repressive, rather than preventive or detective, strategies. This commitment can be implemented in several ways. Firstly, a general policy should be established that is as operable and comprehensive as possible, with real targets and real objectives, effectively replacing the abstract policy contained within the National Development Plan. Secondly, strategies for determining priorities in terms of quality (human resources, charges and penalties) and quantity (cost and social-economic effects) need to be implemented. The Government must also endeavor to reach agreement between all institutions concerned on a cooperation rule that is acceptable to all parties, in order to minimize the technical and operational constraints between these institutions. The entire policy shall, of course, have funding consequences, and the Government and the House of Representatives must realize this by providing requisite funds.

The judiciary needs to stop producing new laws (apart from those concerning the KPK that

¹³⁷ The draft of provisions on the establishment of the Commission on the Eradication of the Criminal Act of Money Laundering (KPTPPU) is part of the Bill of Law on the Eradication of the Criminal Act of Money Laundering proposed by the Government c.q The Bank of Indonesia. while the draft of provisions on the establishment of the Institution for the Protection of Victims and Witnesses is directly accommodated under the Bill of Law under the same title. The Judicial Commission is accommodated under the Elucidation of Law No. 35/1999; however to this day there is yet to be any clarity in regard to its form, function and authorities.

¹³⁸ See Attachment 6: Work Chart of the Institutions for the Future Eradication of Corruption.

are currently being compiled). Resources need to be focused on a comprehensive study of existing legal instruments relating to corruption and to synchronise and harmonise the practical legal constraints faced by repressive institutions in eradicating corruption. Synchronisation and harmonisation targets the legislature, aiming to reduce the scope of corruption and combine the laws to create a set of rules on corruption. Where necessary, existing legislation needs to be modified. Practical legal constraints, such as fund seizures, need to be eliminated.

On an institutional level, the establishment of a core unit for the eradication of corruption, which will function as the main responsible party for corruption prevention, is extremely urgent. Currently, the onus seems to be falling on the KPK, which will be established in the middle of 2001, to provide this. Before such institution becomes operational, however, the Government needs to appoint certain institutions that possess sufficient authority to carry out this function, for example the Attorney General. Other than that, a comprehensive study must be carried out on existing institutions to determine the point of contact. In the event of an overlap, then for the sake of efficiency and effectiveness several actions need to be considered. Financial supervision and governance needs to be streamlined, by merging BPKP, for example, with other internal supervisory institutions (such as the Inspectorate General) and bringing them into line with BPK as the external supervisor, and by merging KPKPN into KPK.

The establishment of the corruption court needs to be further investigated. This can be done by 'cleansing' the existing courts or by establishing a special judicial institution that it is hoped would function as an island of integrity. The first alternative requires a large amount of commitment from the Supreme Court of Justice, which is difficult to expect, judging from the case involving a former Supreme Court judge currently under investigation by TGPTPK. The second alternative is perhaps easier to achieve, as the initiative lies with the legislative institutions, namely the Government and the House of Representatives. However, there are many problems that must be carefully considered, such as the relationship of these bodies to the judicial institutions, with respect to jurisdiction, and selection and appointment of judges.¹³⁹

To conclude, it cannot be denied that, if substantial political changes, as opposed to cosmetic ones, continue to be avoided, the road ahead looks bleak. Opposition and obstacles will remain, blocking the way to justice until a firm political stance, balanced with a comprehensive strategy,

is taken. Half-hearted adjustments, which so far have not even addressed systematic restructuring at the institutional level, will become the main constraints in the drive to eradicate corruption in Indonesia. Legal changes may at times promote changes in the system and political behavior; history, however, has taught us that profound political change is essential to the foundation of a dynamic and sustainable legal system.¹⁴⁰

¹³⁹ For further information, see Ibrahim Assegaf, "Pointers tentang Pengadilan Corruption," (not published) Prepared for the discussion of the Bill of Law concerning the Commission for the Eradication of Corruption, Jakarta, 2001.

¹⁴⁰ This classic closing point is from the notes of Dan S. Lev.

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George Junus Aditjondro studied rural sociology at Cornell University, and got his Master's Degree in Adult Education at the same university. His doctorate, also from Cornell University, was awarded after completing his Ph.D thesis on *The Media as Development Textbook: A Case Study on Information Distortion in the Debate about the Social Impact of an Indonesian Dam*.

He joined the weekly news magazine TEMPO, reporting on science and technology issues, as well as environmental, religious, and provincial development matters. George Aditjondro is currently a lecturer in the Department of Sociology and Anthropology of the University of Newcastle, NSW, Australia. In 1987 he received the Kalpataru award for valuable service to the Indonesian environment. In 1997 he returned the award to President Suharto in protest against the systematic human rights violations and environmental degradation under the Suharto government. Aditjondro has written numerous books, chapters in books, essays, and papers for a variety of national and international conferences.

Alexander Irwan, Ph.D

Dr. Alexander Irwan is a consultant for Governance Assessment Program to the Partnership for Governance Reform in Indonesia. He is also a consultant to the research project sponsored by the World Bank on Corruption and the Poor.

Alexander Irwan obtained his B.A. in Sociology from the University of California, Santa Cruz, his MA in Development Studies from the Institute of Social Studies in The Hague, Netherlands. His Ph.D in Sociology was from the State University of New York at Binghamton, U.S.A. Irwan received a three-year scholarship from the Department of Sociology, State University of New York at Binghamton. Research for his dissertation was funded by the U.S. National Science Foundation.

Dr. Irwan is at the same time a researcher, publicist, and social activist. His research activities ranged from Japanese and Ethnic Chinese business networks in Asia, to outflows and inflows of foreign investments in Indonesia in relation to environmental strategy, and the condition of the Indonesian pharmaceutical industry after the 1997 crisis. He developed data-bases for such daily newspapers as *Bisnis Indonesia* and the *Jakarta Post*. He is also a frequent contributor to domestic as well as foreign publications.

Sudirman Said

Sudirman Said is co-founder and Chairman of the Executive Board of the Indonesian Society for Transparency. After completing his education at the *Sekolah Tinggi Akuntansi Negara* (the State Accountancy Institute of Higher Education), and continuing studies at the George Washington University in Washington, D.C., Sudirman chose a career as auditor with the Financial and Development Audit Board (BPKP).

In 1996 Sudirman Said was appointed Executive Director of the Indonesian Accountants Association (IAI) for a three year term.

Nizar Suhendra

Nizar Suhendra is co-founder and, presently, Executive Director of the Indonesian Society for Transparency, a non-governmental organization engaged in activities aimed at establishing good governance practices in Indonesia. Some of the activities under Nizar Suhendra's direction was the mapping of anti-corruption activities in 10 provinces, and the production of an Academic Draft Law for the Establishment of a Special Court for the adjudication of corruption cases.

Nizar Suhendra obtained a degree in Mechanical Engineering from *Politeknik Universitas Indonesia*, and an Economics degree in Management from the Faculty of Economics, University of Indonesia.

Ibrahim Sjarief Assegaf

Ibrahim Sjarief Assegaf received his law degree from the Faculty of Law of the University of Indonesia in 1997, but had also pursued a non-degree program of law education at the Faculty of Law of the National University of Singapore.

Assegaf practiced law since 1996, first as an intern with the law firm of Aitken, Irvin, Lewin, Vrooman & Cohn, LLP in Washington, D.C., followed by a two-months stint with Baker & McKenzie in Chicago. Upon his return from the U.S. in 1997, Ibrahim Assegaf joined Hadiputranto, Hadinoto & Partners, one of the largest law firms in Indonesia. He left the firm in September 2000 in order to more fully dedicate his time to the Center for Indonesian Law and Policy Studies (PSHK), where he holds the position of Executive Director. Concurrently with that position, Assegaf also functions as Managing Director of P.T. Justika Siar Publika, a web-site publisher (www.hukumonline.com) of data and information on law.

His research activities include a research on Secured Transactions Reform in collaboration with the International Law Advisory Group, Harvard Law School, funded by the Asian Development Bank. Among the ongoing research projects are the research on Legal Professional Responsibility, which is supported by the Asia Foundation, and the Governance Audit of the Public Prosecution Service, in cooperation with PriceWaterhouseCoopers and British International, with funding from the Asian Development Bank.

Assegaf was appointed a member of the Steering Committee for Anti-Corruption of the Partnership for Governance Reform since January 2001.

Biodata of Editor

Richard J. V. Holloway is Programme Adviser on Civil Society/Anti-Corruption, Partnership for Governance Reform in Indonesia., a multilateral initiative started by an Indonesian Board, UNDP, World Bank, and ADB to work on issues of government reform.

Holloway graduated with an honours degree in English Language and Literature from Oxford University. He pursued his studies at the Department of Social Administration of the London School of Economics and Political Science where he received his Post Graduate Diploma in Social Administration (Overseas) with distinction.

During 33 years of his career Richard Holloway worked in cooperation with governments and NGOs in poverty alleviation and social development programs in Asia, Africa, the Caribbean, and the South Pacific. In his role as adviser to governments and civil society organizations he worked for British, American, Canadian, Swiss, UN organizations and the World Bank.

Richard Holloway is the author of a great many articles, papers, brochures, and books. Among the latter is the handbook he wrote on how to measure the health of civil societies (Assessing the Health of Civil Society - a Handbook for Using the Civicus index on civil society as a self-assessing tool). His book on how to achieve financial independence for NGOs (Towards Financial Self-reliance: a Handbook for Civil Society Organizations in the South) is becoming a standard for many NGOs. In The Unit of Development is the Organization, not the Project - Strategies and Structures for sustaining the Work of Southern NGOs, Richard Holloway criticizes donors for restricting their assistance to projects, and refusing to fund those who construct them. In recent years Richard Holloway has been a consultant to and resource person for Transparency International.

